

# STATES OF JERSEY



## **BEACH HOUSE, GREEN ISLAND, ST. CLEMENT: GRANT OF A RIGHT TO ACCESS THROUGH THE SEA WALL**

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**Lodged au Greffe on 6th February 2013  
by the Minister for Treasury and Resources**

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**STATES GREFFE**

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

- (a) to agree that the Public should grant a right of access through the sea wall as shown on Drawing No. 1 to the owners of The Beach House from Green Island slip;
- (b) to authorise the Attorney General and the Greffier of the States to pass any contracts that might be necessary.

**MINISTER FOR TREASURY AND RESOURCES**

Note: The proposal is that the right of access should be granted by the Public for a consideration of £70,000 plus costs.

## REPORT

### Purpose

The purpose of this report is to set out the facts and supporting documents relating to the proposed grant of an access right through the sea wall at Green Island slip to a property known as The Beach House.

### Background

States of Jersey Standing Order 168 provides for land and property matters to be dealt with by the Minister for Treasury and Resources under delegated authority, thus removing from the Order Paper a large number of decisions that would otherwise need to be considered by the Assembly.

The Standing Order does, however, include provisions for States members to raise queries or concerns regarding the proposed transaction. This is embodied in a two-stage Ministerial Decision process, whereby an 'in principle' decision is followed, no sooner than 15 working days later, by a substantive decision. During this period, the Minister for Treasury and Resources will respond to any queries raised and consider any representations.

Notwithstanding the experience that the vast majority of property transactions are dealt with under this process without queries being raised, the current arrangement is important in providing members with an opportunity to raise concerns and receive full and considered responses.

Members will see from the attached chronology that the background surrounding this particular case is long and complex. Positions have become quite entrenched and, despite the best efforts of the Assistant Minister and officers, it has not been possible to reach a solution that is acceptable to all parties.

### Executive summary

The issue for States Members to consider is whether a right of access is to be granted to the owners of The Beach House for vehicles to exit and enter the property via the Green Island slip.

The Assistant Minister for Treasury and Resources gave notice of his intention to grant such access following agreement of terms and subject to certain conditions under delegated authority in accordance with States Standing Order 168 by way of Ministerial Decision MD-PH-2012-0077.

The Connétable of St. Clement has raised certain objections as to the grant of the right and the creation of an access through the sea wall, and these have not been able to be allayed. These objections are set out at **Appendix 1**.

This matter has been ongoing in a variety of forms since 1998 and needs to be resolved. A chronology of events is attached as **Appendix 2**.

## **The issue**

The Beach House does not benefit from vehicular access, only pedestrian access. A site plan and image are attached at **Appendix 3**.

The owners of the property are seeking to obtain the right of access, on commercial terms, from the Public and undertake the works to create the access at their expense.

In order to create access, an opening needs to be created in the sea wall with the access taken from the slip, which is currently used for public parking and the location of a concession.

In considering whether a right of access may be granted, Jersey Property Holdings (JPH) on behalf of the Public has considered a number of issues, as follows:

### **Crown consent**

The foreshore is owned by the Crown and held by the Public by way of a long lease. The consent of the Crown is required for any grant of access.

H.M. Receiver-General is willing to grant consent, subject to the Public agreeing and confirming all statutory consents are in place.

### **Public consent**

JPH has agreed commercial terms for the access of £70,000 subject to certain conditions, and have recommended that the transaction proceed once these conditions are met.

These are –

- The owners accept that access is at their own risk and will not be policed by any Public, statutory or other body and cannot be guaranteed
- All costs in creating the access will be met by the owners of The Beach House
- Final approval of drawings and specification of the access works is required from the Transport and Technical Services Department prior to commencement
- No liability falls to the Public, statutory or other such body for loss to access from the slip due to repair, maintenance, rebuilding or other loss of the slipway
- A restrictive covenant is to be included in the contract preventing the existing built area of The Beach House being extended, converted or significantly altered without consent at an additional premium.

**Appendix 4** sets out the Ministerial Decision.

It should be noted that The Crown will receive 10% of the premium achieved.

## **Planning**

There is a valid planning permission for the creation of the access. This is by way of the original consent for the building of The Beach House dated 22nd October 2002. Details of the consent are set out in **Appendix 5**.

The Planning Department has sought confirmation from the Solicitor General, who is of the opinion that the permission is valid.

## **Concession on the slip**

The concessionaire who operates the deckchair licence currently parks the trailer in the vicinity of the proposed opening. They have confirmed that they are willing to relocate elsewhere on the slip, and that they have no difficulty with the access being granted.

## **Policing of access**

The Parish has concerns that the Honorary Police will be under undue pressure to police the slip if a member of the public blocks the access. It has been agreed with the owners of The Beach House that the risk lies with them, and this would form part of the conditions of the contract. For the avoidance of doubt, the Parish would not be required to police the access.

## **Creation of access**

One of the conditions of the grant is that the works are undertaken to the satisfaction of the Transport and Technical Services Department (TTS). Prior to the commencement of any works, the specification and drawings must be approved.

TTS are satisfied that the proposed access is feasible and does not pose a significant risk of flooding.

Additionally, expert engineering advice has been submitted by the owners to support this application (see **Appendix 6**).

## **Health and safety**

An expert report has been commissioned by the owners of The Beach House, which states that the creation of the access poses no greater threat for users of the slip than the current ability of cars to use the access slip (see **Appendix 7**).

## **Historic plaques**

A condition of the grant of access is that the Historic plaques will be relocated at the expense of the owners of The Beach House to another location on the slip wall.

## **Summary**

It is believed that all the necessary statutory consents are in place, and that the works to be carried out will not detrimentally affect the retained Public land interest, subject to confirmation by TTS to the engineering treatment.

**Recommendation**

It is recommended that the approval be granted to the owners of The Beach House to create a vehicle right of access, on the basis of the premium agreed and subject to the conditions identified.

**Financial and manpower implications**

The Public would benefit from a receipt of £70,000, less 10% to the Crown, should the access be granted. There are no manpower implications for the States arising from this proposition.

**OBJECTIONS OF THE CONNÉTABLE OF ST. CLEMENT**

I am grateful to the Minister for Treasury and Resources for allowing me to incorporate the concerns of the Parish of St Clément within this document.

As the Minister states in his report, the background surrounding this particular case is long and complex, but the position of the Parish has been consistent since the threat of a breach in the sea defences was first mooted in 1998.

Successive Public Services Committees have always agreed with the position of the Parish regarding the integrity of the sea wall, the added risk of flooding if the breach were to be permitted and pedestrian safety in this very small but extremely popular beach area.

The position of the Parish and the Public Services Committee was also supported by the Board of Administrative Appeal (the predecessor of the Complaints Board) who reported as follows subsequent to a hearing requested by the owners of "The Beach House", then known as "Rockview":-

The objections of the Parish to this proposed development can be summarised as follows:-

- Lack of consultation with the Parish prior to planning consent being granted.
- Impact of the proposed works on the integrity of the sea wall.
- Risk of flooding to nearby properties due the breach in the sea wall.
- Impact of pedestrian safety from traffic exiting from the proposed access onto the slipway.
- There is no other sensible location for the beach concession.
- Because the slipway is a designated parking area it will be impossible for the Parish to police vehicles blocking the proposed access.
- The Minister relies on a report commissioned by the owners of "The Beach House" and carried out by a Police Officer who specialises in Forensic Collision Investigation for reassurance that this breach will have no negative impact. I acknowledge that the author of the report was previously employed as a Civil Engineer. However the report concludes that the creation of the proposed vehicular access "will not impact on the aesthetics of the area" and the "construction will not breach the seawall defences in any way". This is despite the fact that it is proposed to create 12' opening in the wall.

It is clear that this proposition should not be supported.

Len Norman

Connétable of St Clément

Attached copy of the Review Board Decision of June 26, 2001.

BOARD OF ADMINISTRATIVE APPEAL

Tuesday 26th June 2001

Complaint by Mr and Mrs Leonard Philip Baudains (represented by  
Mr. N.P.E. Le Gresley) against a decision of the Public Services Committee

Hearing constituted under the Administrative  
Decisions (Review) (Jersey) Law 1982, as amended

1. Present -

Board Members

Mr R.R. Jeune C.B.E., Chairman  
Mrs L.J. King M.B.E.  
Advocate G. Le V. Fiott

Complainants

Mr and Mrs L.P. Baudains  
Mr. N.P.E. Le Gresley

Public Services Committee

Deputy A S Crowcroft - President  
Mr. J. Richardson, Chief Officer designate

Parish of St Clement

Connétable S.J. Le Cornu

States Greffe

Mr M.N. de la Hays, Deputy Greffier of the States

The hearing was held in public at Samarès Methodist Church Hall, St Clement on 26th June 2001.

2. Summary of the dispute.

- 2.1 The Board was convened to hear a complaint of Mr and Mrs L.P. Baudains (represented by Mr. N.P.E. Le Gresley) against a decision of the Public Services Committee to refuse permission for the creation of an opening in the sea wall adjoining the property known as 'Rockview' and the creation of a vehicular access to the property over the slipway leading to Green Island beach which is administered by the Public Services Committee.



3. **Site Visit to 'Rockview'**

3.1 After the formal opening of the hearing at Samarès Methodist Church Hall the parties went on foot to Green Island slipway to view the site of the proposed entrance. Mr. Le Gresley showed the Board the location of the proposed opening and the Board was also able to note that vehicles were allowed to park on the west side of the slipway right up to the area in front of the proposed entrance (although two small dinghies were placed on the slipway against this part of the sea wall during the site visit). The Board was also shown the pedestrian route from the western part of the beach to the car park via low steps which led onto the slipway just below the proposed opening.

4. **Summary of the Complainant's case.**

4.1 The Board had received a full written summary of the Complainants' case before the hearing and had taken note of the submissions made on their behalf.

4.2 Mr. Le Gresley, on behalf of the Complainants, explained in his submissions that although there was a pedestrian right of way from the car park at Green Island to 'Rockview' no vehicular access was enjoyed to the property. As a result Mr. Le Gresley contacted the Conveyancing Section of the Law Officers' Department in October 1997 to request that steps be taken to establish whether or not the appropriate authorities would be prepared to allow a vehicular access to be created.

4.3 Mr. Bechelet, Head of Conveyancing at the Law Officers' Department, advised Mr Le Gresley that the slipway over which a right of way was sought was owned by the Crown but leased to the public. The slipway and the adjoining sea wall were administered by the Public Services Committee.

4.4 In November 1997 Mr. Le Gresley attended a site visit with Mr. Bechelet, H.M. Receiver General and Mr. Chris Carey, Valuer/Estates Surveyor of the Property Services Department. As a result of that meeting Mr. Le Gresley was advised in a letter from Mr. Bechelet dated 20th November 1997 that the Crown had no objection in principle to the creation of a vehicular access to 'Rockview' subject to the necessary authorisation being obtained from the Planning and Environment Committee and any other interested States Committees or Department.

4.5 In January 1998 Mr Le Gresley received a letter from Mr Carey of the Property Services Department stating that the Public Services Department had no objection in principle to the creation of an access but nothing further could be done until planning permission for the proposed access was received from the Planning and Environment Committee.

4.6 The Complainants submitted an application for planning permission shortly afterwards and, in the usual way, the Planning Department advertised the application and sought comments from interested parties. Two letters of objection were received. One was from the Parish Secretary of St. Clement stating that the Roads Committee of the Parish were not in favour of the creation of the new access as it was concerned that there would be little visibility for vehicles exiting from the property and, in addition, it was likely that the entrance would often be obstructed by cars parking on the slipway. The Roads Committee was also concerned about the possible impact of the sea defences if the sea wall was breached. The second letter of complaint related to a private matter concerning the occupant of 'Rockview' and was

not of relevance to the Board. In addition to the letters of objection the Planning Department received a letter in the following terms from Mr E.J. Cuthbert, Manager, Engineering Services at the Public Services Department -

*"I refer to your letter dated 27th February 1998 regarding the Planning application to create a new vehicular access onto Green Island slipway.*

*At the present time the owner of the property has not got permission to create an opening through the sea wall, which is under the administration of this Department. In principle there is no objection to the proposal, but no work can be commenced until a contract has been sorted out by Property Services/Law Officers Department".*

- 4.7 Planning permission to create the new vehicular access was granted by the Planning and Environment Committee on 12th March 1998 and following the grant of that permission the Property Services Department wrote to Mr Le Gresley setting out the terms on which that Department was prepared to recommend to the Public Services Committee that the transaction be entered into.
- 4.8 Mr Le Gresley wrote to the Property Services Department in July 1998 confirming that his clients were prepared to enter into the transaction on the terms suggested and requesting that the necessary contract be prepared. The reply from the Property Services Department stated that formal consent from the relevant Committees would now be sought so that the Law Officers' Department could be instructed to complete the matter.
- 4.9 Mr Le Gresley heard no more about the proposed transaction until he received a letter dated 24th November 1998 from the Head of Conveyancing at the Law Officers' Department stating that the Public Services Committee, at its meeting of 21st September 1998, had decided that it was not prepared to grant consent for the proposed opening in the slipway. This was the first intimation received by the Complainants that the proposal did not meet with the Committee's approval despite the previous indication that there was, in principle, no objection.
- 4.10 The Complainants did not pursue the matter following receipt of the letter as they were involved in a potential legal challenge to the will under which Mr Bandains had inherited the property "Rockview". However following the resolution of those difficulties Mr Le Gresley, in November 1999, requested the Public Services Committee to reconsider the matter. The Committee eventually did that on 8th May 2000 but decided that it was not prepared to alter its decision.
- 4.11 Mr Le Gresley explained to the Board that he was aware that the Public Services Committee had taken account of objections from the Parish of St Clement when reaching its decision. These concerned the potential danger to pedestrians from the new access, problems with parking and the impact on the sea defences of breaching the sea wall. However the Complainants considered that those objections were not justified. The traffic from the new entrance would be extremely minor when compared to the general level of vehicular traffic on the slipway. Furthermore the responsibility for any flooding or damage arising from the creation of an opening would lie with the Complainants and was not therefore an issue that the Committee should have taken into account. The Complainants were extremely aggrieved to learn in November 1998 that the transaction was not approved after being led to believe over several months that the relevant authorities had no objection.

5. Summary of the Committee's case.

- 5.1 The Board had received a full written summary of the Committee's case before the hearing and the written submissions were amplified by Deputy A.S. Crowcroft, the Committee President, and Mr John Richardson, Chief Officer designate.
- 5.2 Deputy Crowcroft explained that the Committee had considered the matter on several occasions including in January 2001 after the request for a review by a Board of Administrative Appeal had been submitted. However the Committee had decided on each occasion that it was not prepared to grant permission.
- 5.3 The Committee's objection to the proposal was based on two grounds; pedestrian safety and the integrity of the sea wall. In relation to the first the Committee's view was that vehicles would exit from the proposed entrance at right angles to the slipway with virtually no visibility of persons on the slipway. Although the Committee accepted that there was vehicular traffic on the slipway at present, this traffic was clearly visible to pedestrians. The presence of vehicles on the slipway presented a certain danger but it would be extremely foolish of the Committee to allow an additional danger to be created especially as the pedestrian route from the western side of the slipway to the car park was well used. If the new access were created pedestrians would walk straight into the path of vehicles exiting from it.
- 5.4 The Committee's second objection related to the integrity of the sea defences. The Committee was extremely concerned that an opening in the sea wall at this location could allow sea water to flood into 'Rockview' and neighbouring properties in storm conditions. The Committee was concerned that it could be liable for such damage if it allowed the new opening to be created.
- 5.5 The Committee accepted that the dealings with the Complainants had not been entirely satisfactory. In particular the Committee accepted that the former Manager of Engineering Services, Mr E. J. Cuthbert, should not have given encouragement to the Complainants by indicating that there was no objection in principle to the proposal when it had not been considered by the Committee itself. However the Committee's case was that the Complainants should have been aware from correspondence received that the transaction was subject to approval by the Committee and members of the public should not take comfort from indications from officers when dealing with the States. Furthermore the issue of planning consent was not of particular relevance to this case as the wall and slipway in question were under the administration of the Public Services Committee and the transaction could not proceed without approval from the Committee. The Committee nevertheless conceded that there had been a lack of co-ordination between the Property Services Department, which had written to the Complainants setting out the full terms of the transaction, and the Public Services Department. The Complainants had clearly been encouraged by the early indications that the transaction could proceed although, in the Committee's submission, that encouragement only lasted for a period of some six months, from March to September 1998.
- 5.6 Deputy Crowcroft informed the Board that the original decision had been taken by the Committee as previously constituted, and not under his presidency. When the Committee under his presidency had reconsidered the matter it had, in his words, to choose between the *Tesser of two evils*. On the one hand the Committee had to consider the sense of grievance felt by the Complainants as a result of the encouragement received whilst, on the other hand, the Committee had to consider the

serious consequences of granting permission. After careful consideration it had concluded that, despite the errors of administration that had occurred, it would not be acceptable to allow the entrance to be created.

6. **Parish of St Clement.**

- 6.1 The Constable of St Clement was present during the hearing and, with the agreement of both parties, was allowed to address the Board on the concerns of the Parish authorities of St. Clement. Connétable Le Cornu showed photographs of the area taken at high tide during a winter storm in 1992. The parish authorities shared the views of the Committee in relation to the potential danger to pedestrians and in relation to the potential risks involved in breaching the sea defences. In addition the Parish was concerned that policing problems would arise if a new vehicular entrance was created as it would inevitably be blocked by parked vehicles on busy summer days and the parish police would then be called upon.

7. **The Board's findings.**

- 7.1 Article 2 of the Administrative Decisions (Review) (Jersey) Law 1982, as amended, allows any person who is aggrieved by a decision made, or by any matter of administration by any Committee or Department of the States, to apply for a review by a Board of Administrative Appeal. The Board considers that the Complainants have every reason to be aggrieved by the actions of the States Committees and Departments that have been involved in this case which, in the Board's view, has revealed a serious level of maladministration and lack of co-ordination between States bodies. Having made an initial approach to the Law Officers' Department the Complainants were given constant encouragement that the application would proceed. Her Majesty's Receiver General indicated that he had no objection, planning consent was granted and a senior officer of the Public Services Department indicated in the letter quoted above that there was, in principle, no objection from that Department. The Board noted that this letter appeared to be inconsistent with an earlier letter written to Mr. Carey of the Property Services Department in which the same officer of the Public Services Department wrote *'I am concerned at the possible effect on the sea wall and Rock View if the wall is breached and we experience heavy tidal action'*. The encouragement given to the Complainants culminated in a formal notification of the terms of the transaction, signed under delegated authority by the Director of Property Services on behalf of the Planning and Environment Committee, being sent to the Complainants. The Board noted from the letters copied to it that the Complainants were, at this stage, so confident that the transaction would proceed that Mr Le Gresley submitted a cheque for £1,000, the agreed consideration, to the Head of Conveyancing. The Complainants' hopes were finally dashed following receipt of a letter from the Head of Conveyancing in November 1998 informing them that, at a meeting held some two months earlier, the proposal had been rejected by the Public Services Committee.
- 7.2 The Board has given very careful consideration to this case and its decision, although unanimous, has been very finely balanced. It has considered whether the level of encouragement given to the Complainants was so great that it was then unreasonable for the Committee to reject the application. It has also, however, considered whether the decision taken by the Committee was, notwithstanding the encouragement given to the Complainants, ultimately the correct one. Taking all the issues into account the Board has, somewhat reluctantly, concluded that the Committee's decision was, on balance, correct. The Board accepts that the two grounds relied on by the

Committee, namely the integrity of the sea wall and, perhaps more importantly, pedestrian safety, are important concerns and it would not have been in the public interest for the Board to have ignored those issues simply because of the maladministration that had occurred. The Board therefore rejects the complaint and will not ask the Committee to reconsider its decision.

7.5 In making this decision the Board wishes to make it clear that it has considerable sympathy for the position of the Complainants. They have undoubtedly incurred considerable expense in pursuing this application and had every reason in the early stages to expect that it would proceed to a satisfactory conclusion. Although some letters they received were headed 'Subject to Committee approval' others were simply headed 'Subject to Contract'. The Board was not impressed with the Committee's assertion that the negotiations had not reached a stage where they would be legally binding because they were deemed to be subject to subsequent Committee approval. Although it is not within the Board's remit to advise the Complainants on the way forward the Board considers that other remedies may be available to them. It is with some regret that the Board notes it has no power to deal with the matter of costs as in legal proceedings as, if it had the power, it would undoubtedly suggest that the Committee should meet the Complainants' legal costs in pursuing this complaint. The Board considers that citizens are entitled to a higher standard of service from Committees and Departments than that received by Mr and Mrs Baudains. In particular this case has revealed an apparent lack of co-ordination between Departments which has led to the difficulties referred to earlier. The Board considers that efforts must be made to improve the co-ordination between Departments involved in such transactions to avoid similar problems arising in the future. In addition the Board has sympathy with the Connétable of St Clement who considered that Connétables were not currently consulted to the extent that they should be in relation to the creation of accesses onto public roads in their parishes. The Board urges that Connétables should always be consulted at an early stage, not only because they have an in-depth knowledge of their own parish, but also because the Parish authorities will, if the changes are approved, be called upon to deal with subsequent policing problems.

Signed and dated by -

 16 July 01  
Mr R.R. Johns C.B.E., Chairman

 14 July 01  
Mrs L.J. King M.B.E.

 17 July 01  
Advocate G. Le V. Fiott

## CHRONOLOGY OF EVENTS

## ‘ROCKVIEW’ GREEN ISLAND CHRONOLOGY

1. **12/3/98** – Planning Application approved for the formation of an access onto the slip/car park P/1998/0189. Included in that application was a consultation response from PSD indicating that there would be no objection to the access subject to contract. The Parish objected to the application but it was nevertheless approved. The application was accompanied by a letter that indicated Public Services Committee would have to approve the proposal in terms of permission to breach the wall.
2. **21/9/98** – Public Services Committee NOT prepared to grant access rights due to the objection of the Parish
3. **24/11/98** – Letter from Law Officers confirmed the position of the Committee to the owner
4. Pause in correspondence due to the death of the owner
5. **8/7/99** – letter from owner’s solicitor [REDACTED] to Law Officers querying the position of Public Services Committee.
6. **13/7/99** – Law Officers confirm the PSC position as not allowing the access
7. Matter referred to an Administrative Board of Appeal
8. **26/6/01** – Board of Appeal upholds the Committee’s position on the basis that it is entitled to reach the decision in reached.
9. **1/7/02** – Planning application submitted (P/2002/1602) for the demolition of the existing dwelling and the erection of a new dwelling. Submitted plan showed no access from the slip/car park. PSD (Highways) did not object. Parish were not consulted.
10. **19/10/02** – Amended plan submitted showing a vehicular access to the site off the slip and a vehicle turning area on the site. There was no referral of the amended plan to any consultees
11. **22/10/02** – P/2002/1602 APPROVED by the case officer under delegated powers. A condition indicated that the wall had to be appropriately finished following the insertion of the access. Development commenced within the 5 year limit and as such all elements of it – whether constructed at the time or not – have planning permission. The driveway and access remain unimplemented as of June 2011
12. **4/12/02** – planning application received (PB/2002/2928) to construct basement garage to previously approved property. PDS consulted and objected to the access as demonstrated on the submitted plan on the basis of previous PSC comments. Notwithstanding the PDS comments the application was approved on 20/1/03 but has never been implemented
13. **April 2003 to November 2008** – exchanges of correspondence between the owner ([REDACTED]) and their Advocate with PSD/TTS regarding obtaining access from the slip. Discussions included the status of the Review Board decision and the technical aspect of constructing the access.
14. **6/11/08** – letter from TTS to owner’s Advocate indicating that the request to form the access must be considered afresh and the process should be through the mechanism of an application for planning permission which would as a matter of course involve consultation with all interested parties.
15. **Early 2009** – became apparent that planning permission for the access was already in place by virtue of P/2002/1602.
16. **Mid 2009** – discussions between TTS and Planning regarding the situation took place including a site meeting with the Constable of St Clements to highlight the extant permission for the access.
17. **2/10/09** – Meeting of the Minister TTS and Minister P&E to discuss the situation. Discussion resulted in a letter to the Law Officers seeking advice on 3 issues. [REDACTED]
18. [REDACTED] Queries from the owners new Advocate could only be responded to in the context of waiting for the Law Officers’ advice

## **Jersey Property Holdings Chronology**

**Property/Subject:** The Beach House

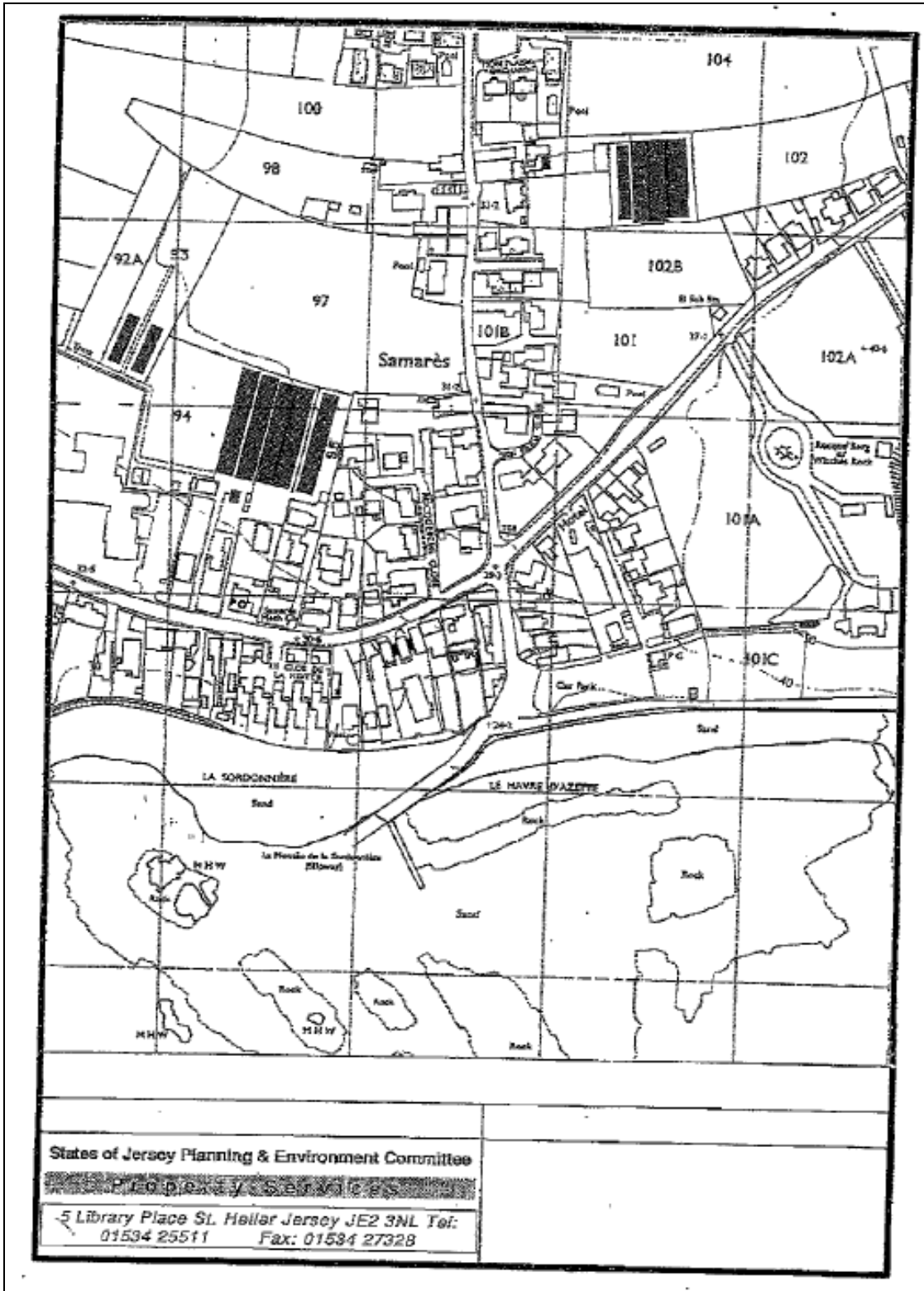
**Date:** 21 November 2012

**File Ref No:** 0448-01-003

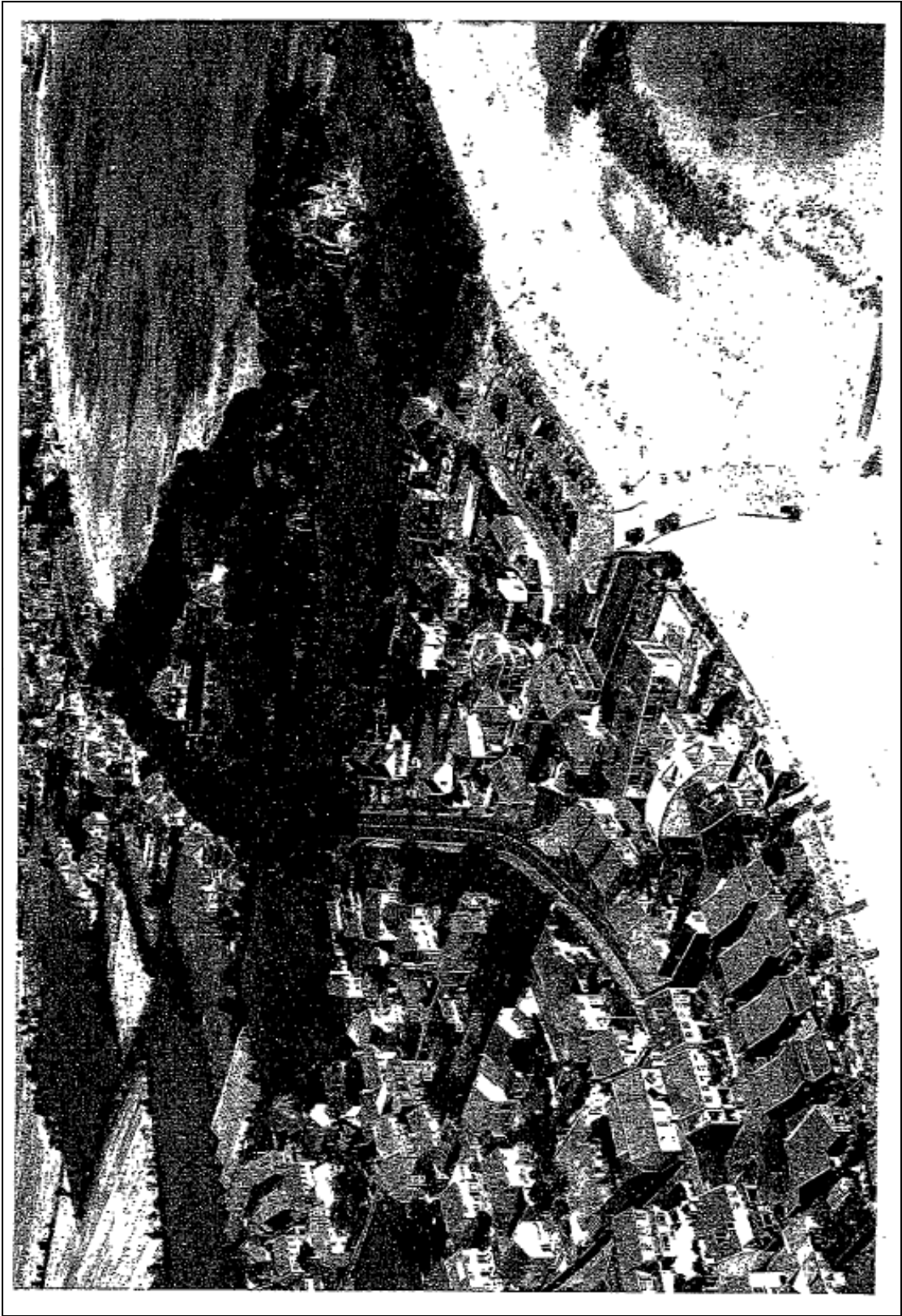
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<b>28/07/2011</b>	JPH review file in respect of whether Public need to grant consent.
<b>31/07/2011</b>	JPH report to Acting chief Officer and Assistant Minister confirming initial view that consent should not be refused subject to issues re blockage of access and other commercial terms and conditions.
<b>16/08/2011</b>	JPH initial recommendation regarding terms, conditions and independent valuation and confirmation to proceed.
<b>16/08/2011</b>	Agents instructed for Public.
<b>22/09/2011</b>	JPH initial draft report prepared.
<b>October 2011 - March 2012</b>	Negotiations and discussions re valuation and costs.
<b>26/03/2012</b>	Letter to Chief Minister regarding dispute over valuations.
<b>04/07/2012</b>	Agreement of final terms as preparation of Ministerial Decision.
<b>01/08/2012</b>	Ministerial Decision signed.

SITE PLAN AND IMAGES







**APPENDIX 4**

**JERSEY PROPERTY HOLDINGS TRANSACTION RECOMMENDATION  
(MD-PH-2012-0077)**

**Decision Summary**

Treasury & Resources Department  
Ministerial Decision

<b>Decision Reference: MD-PH-2012-0077</b>			
<b>Decision Summary Title (File Name):</b>	DS – Beach House, Green Island, St Clement – right to access through the sea wall	<b>Date of Decision Summary:</b>	1 <sup>st</sup> August 2012
<b>Decision Summary Author:</b>	Assistant Director – Strategic Planning and Estate Management	<b>Decision Summary: Public or Exempt?</b>	Public
<b>Type of Report: Oral or Written?</b>	Written	<b>Person Giving Oral Report:</b>	N/A
<b>Written Report Title (File Name):</b>	WR - Beach House, Green Island, St Clement – right to access through the sea wall	<b>Date of Written Report:</b>	1 <sup>st</sup> August 2012
<b>Written Report Author:</b>	Assistant Director – Strategic Planning and Estate Management	<b>Written Report : Public or Exempt?</b>	Exempt Clause refs. 3.2.1 (a)(i) SD - Public
<b>Subject:</b> Beach House, Green Island, St Clement – right to access through the sea wall (MIG 0448-01-001)			
<b>Decision(s):</b>			
<ol style="list-style-type: none"> <li>1. The Minister decided, as recommended by Jersey Property Holdings, to notify the States of his intention to: <ol style="list-style-type: none"> <li>a. grant a right of access through the sea wall to the owners of The Beach House, from the Green Island slip.</li> </ol> </li> </ol>			
<b>Reason(s) for Decision:</b>			
<ol style="list-style-type: none"> <li>1. Under Standing Order 168 (1) (b) the Minister is obliged to notify the States that he has accepted the recommendation of Jersey Property Holdings to agree to the above land transaction</li> <li>2. Under Standing Order 168 (5) the Minister hereby authorised the Attorney General and the Greffier to pass any contract which is required to be passed on behalf of the Public.</li> </ol>			
<b>Resource Implications:</b>			
There are no financial, manpower or balance sheet implications in respect of this decision other than those detailed in the report.			

## Decision Summary

**Action required:**

1. In accordance with Standing Order 168 (3) this decision must be presented to the States at least 15 working days before the contract is passed. After the expiry of 15 working days following presentation to the States the transaction may be concluded.

**Signature:**

**Position:**

Deputy E Noel \*  
Assistant Minister for Treasury & Resources

**Date Signed:**

**Date of Decision** *(If different from Date Signed):*

\* Under delegated powers approved by the Minister for Treasury and Resources 15 March 2012 – MD-TR-2012-0031.

PLANNING CONSENT 22ND OCTOBER 2002

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PL

ISLAND PLANNING (JERSEY) LAW, 1964.



State Hill  
St Helier  
Jersey JE2 4UB  
Telephone 01534 755611  
Facsimile 01534 756222  
www.jersey.gov.je

Planning Application Number P/2002/1602

The Planning and Environment Committee, having considered your application hereby GRANTS PERMISSION TO DEVELOP LAND<sup>1</sup> under the Island Planning (Jersey) Law, 1964, to:

Demolish existing dwelling and construct 3 storey house

To be carried out at:

Rockview, Green Island, St. Clement.

Subject to compliance with the following conditions and approved plan(s):

Standard Condition

A. If the development hereby permitted has not commenced within three years of the decision date, this permission shall cease to be valid.  
Reason: The Planning and Environment Committee reserves the right to reconsider this proposal consequent on any future change of circumstances or policy.

Condition(s)

1. That all alterations, extensions or amendments to the existing sea wall shall exactly match its appearance, to the satisfaction of the Planning and Environment committee
2. The first floor window(s) in the rear elevation of the dwelling hereby permitted relating to the HR and the study shall be of a permanently fixed, non-opening design, and shall be fitted and permanently maintained with obscure glass.
3. The balcony on the south facing elevation of the dwelling hereby permitted shall be constructed with an obscure glazing screen and be of a permanently fixed, non-opening design, and shall be fitted and permanently maintained with obscure glass.

Reason(s)

1. To protect the visual amenity of the sea wall and its crevices

APPROVED

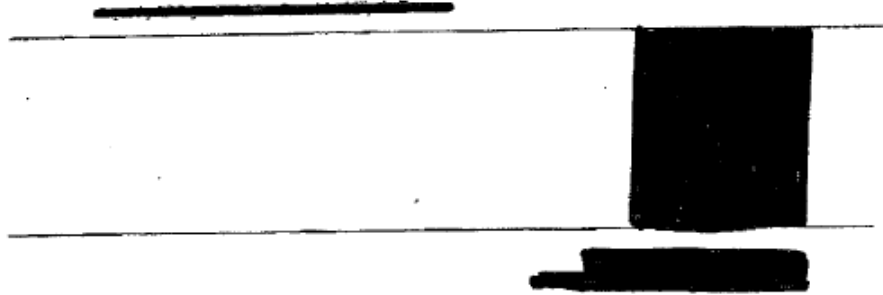
CAUTION

This decision is purely permissive and in no way shields the parties concerned from obtaining, nor does it override, any other provision that may be required under any other law. In addition, it does not override any private property rights, nor does it absolve an applicant from the need to obtain the permission of the owner of the land to which a permission relates.

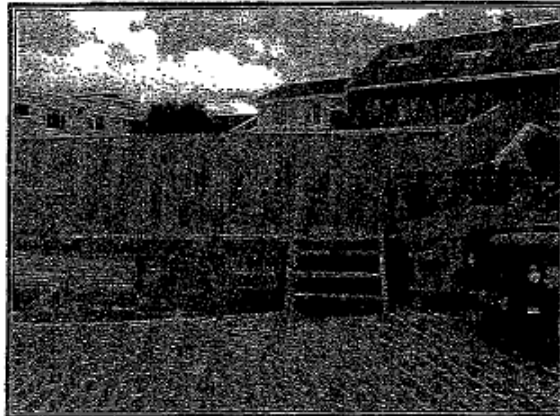
(P1; P/2002/1602; Page 2)

DESIGN REPORT FOR CREATION OF ENTRANCE

9



Considerations for the Design of the entranceway to the property "ROCK VIEW" from the Green Island Car Park and slipway.



Report prepared [REDACTED]



1

\_\_\_\_\_

### Introduction

1. Allow me to introduce myself I am Mr. \_\_\_\_\_, and I am currently employed as a Police officer, My specialist field within the police force is that of Forensic Collision Investigation and I am at present an Associate member of the Institute of Traffic accident Investigators. I am fully qualified and hold the City and guilds certificate in Forensic Collision Investigation for Police Officers.
2. Previously to my this I was employed as a Civil Engineer in Jersey and worked within that field for Fourteen years, prior to becoming a Police Officer, I hold both a Higher national diploma and a Bachelor of Engineering Honours degree in Civil Engineering. I specialized for my Final Year thesis on Armoured revetment protection in Coastal Defence works.
3. My brief from \_\_\_\_\_ has been to look at all aspects relating to the introduction of and construction of a vehicular access onto the shipway at Green Island and its associated works, For consideration of the impact on the vehicular movements I ask that you refer to the previous report submitted by my former colleague \_\_\_\_\_ and his layout plan.

### Location

4. Green Island is a popular south coast tourist location. By it's very nature the small grass topped rocky island is situated some 300m off shore amongst a multitude of other rocky heads within the confines of the vast area of rocks which make up the south east corner of the Island of Jersey.



Figure (1)

5. This has led to the formation of a very nice sheltered sandy beach, which has proved popular with visitors. As a result a Car park has been formed and a thriving Cafe/Restaurant is being run adjacent to the property "Rock View". Figure (1) shows the regulations in force in the Car Park at this time.

6. Leading from the Car Park down on to the beach to the rear of Green Island is a Granite cobble Slip way which allows Car Parking on the right hand side only as seen in Figure (2).
7. The only restrictions are those imposed by the Sign in figure (3) below



Figure (2)



Figure (3)



Figure (4)

8. To the North West of the slipway is the granite seawall that forms part of the property "Rock View" and it is this wall that we shall be concerned with when considering the proposals for the vehicular access Figure (4)

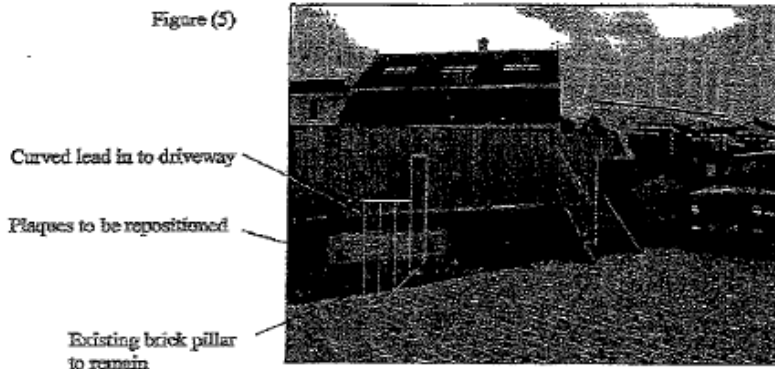
#### Design Considerations

9. Whenever designing a deliberate breach in any Coastal sea wall defences several factors should be taken into consideration. We should consider those that effect Coastal erosion and the mechanics of wave action. We can then apply these design principles to negate their effects.
10. Waves are normally generated by the effect of wind passing over the surface of the water and are therefore dependant on several factors. The force of the wind, the duration that it blows and the "Fetch", that is the clear distance that the wind whilst in contact has to blow over the water. These are the main factors effecting wave generation.
11. Green Island is situated on the south coast and therefore the Fetch is limited to the Bay of Granville and its clear distance from such rocky outcrops as the Plateau des Minquiers at high tide.
12. The state of the tide, the depth of the water and the phase of the moon also affect wave height. A worst-case scenario being a spring high tide. Sea water levels are also affected by atmospheric pressure causing what is known as a Seiche Tides. This is when an exceptionally low pressure above the water surface allows the water to rise.
13. These factors that I have mentioned are of course what can directly affect the waves that break on the Seaward side of Green Island. The slipway is on the Leeward side and there are several other factors, which come into play.

14. The Island will in its self act as a Coastal defence and will dissipate wave energy. It will also allow a certain amount of wave refraction, which means that the wave front will be bent round the island as it strikes.
15. The flow is therefore in several different directions to the seaward side of the island. This can be clearly seen by the way in which the sand and shingle has been deposited.
16. I have observed that allowing the wave to break and run up or "swash" on to the slipway and cascade back over the sides, finally dissipates the wave energy.

**Design Criteria**

17. The proposal then is to introduce a vehicular access into the seawall as shown in figure (5) below. The wall is currently at its lowest point 1.2m above the slipway and the rear garden to the property "Rock View" is situated level with this and the base of the wooden fence shown. The width of the entrance is such that the granite plaques commemorating the round island swim will have to be repositioned at the owner's expense.
18. The proposal therefore is to cut into the wall and create a sloping driveway parallel with and adjacent to the rear of the café/Restaurant. With a splayed mouth to prevent any sharp corners and to be in keeping with the existing walls and surrounding buildings.
19. The "ramp" would slope up for at least 15meters before regaining the level of the existing ground in the rear of the property. It is proposed that the Ramp be constructed as a trough in reinforced concrete, which would have the inner faces lined with granite for aesthetics and would therefore form a sealed unit and prevent any erosion should any seawater reach that far.

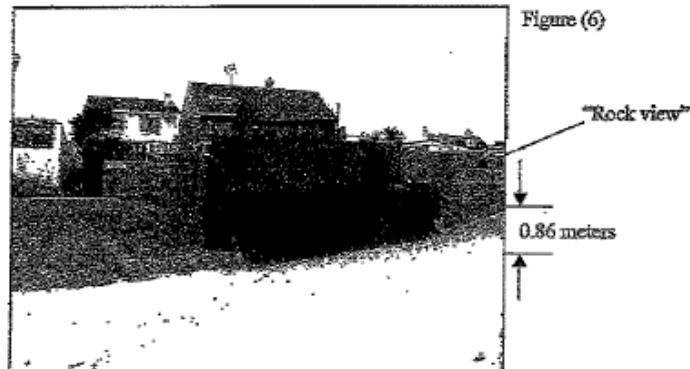




20. Contained within the report is a sketch plan and Sectional views of the proposed reinforced concrete ramp that will be constructed to engineer's details. See Drawing number JCP/0601.

21. The proposals outlined will be more than adequate to prevent a breach or exploitation of a breach in the coastal defences in this area, which is more than can be said for a breach that already exists in the sea wall some 18 meters west of the proposed works, see figure (6)

22. The breach as we can see from the photograph is some 0.86m below the level of the proposed new entranceway. I am not aware of any issues with the current breach as constructed and cannot see any issues arising from a properly constructed new access onto the slipway.



23. Most Coastal defence works are assessed on their merits as being constructed to withstand a certain predicted probability of an event occurring. An example being that they may be constructed to withstand a one in one hundred year storm. The likely hood of them being overtopped or breached results in a direct cost comparison between the predicated costs of repairs to damage caused by the storm occurring against the initial outlay of the defences as constructed.

24. Last years saw a one in forty years storm event to hit the Island and couple with the spring high tides the island battered down to ride this out. I observed this event at Green Island at high tide and as predicted the offshore island predominantly absorbed the storm surge. All that was left to dissipate on the slip way and area of the proposed works was the swash or run up from the breaking waves this did not reach the car park level and only just reached the base of the wall beneath the Plaques.

Conclusions

25. To conclude then: the creation of a vehicular access to the property "Rock View" on the granite cobbled slip way at Green Island if constructed to the specifications proposed and in the manner described would in my opinion enhance the area not detract from it. Its creation will not impact on the aesthetics of the area as it is proposed to construct the entrance using traditional materials and finishes.
26. The construction will not breach the seawall defences in any way as they are designed to tie in with and remain at the existing levels. Unlike those that already exist 18m West and 0.86m lower down the seawall.
27. The vehicular traffic using the access will be light and infrequent and its inclusion will prevent a choke point with parking at the top of the slipway just outside the Café/Restaurant.

Signed .....



[Redacted]

**Supplementary Report on the safety implications of  
proposed siting of entranceway to property 'The  
Beach House', Green Island, St Clement.**

Prepared for

[Redacted]

Report prepared by [Redacted] MLTAL RFP

Dated 8<sup>th</sup> December 2007

## 1. Introduction

- 1.1 Following on from my previous report dated 6<sup>th</sup> April 2006, I have been asked to comment further on concerns raised regarding whether the proposed driveway for 'The Beach House' would conform to the Transport and Technical Services Dept guidelines in relation to visibility sightlines.
- 1.2 In order to assist this report I have had view of certain documents, namely a plan and legend marked as 1096/01, and pages 4 to 7 of the aforementioned guidelines. I also have personal knowledge of the area in question.

## 2. Comment

- 2.1 Having studied these guidelines it is immediately obvious that they relate specifically to entrances entering onto the public road system where vehicles exiting those entrances and driveways must see and be seen by vehicles travelling on the main roads.
- 2.2 As such a graph has been produced to show how far a driver would need to be able to see along the road depending upon the 85<sup>th</sup> percentile speed of that road.
- 2.3 Great play is made upon the fact that the 85<sup>th</sup> percentile speed for many of the islands roads is 35 MPH and that therefore, in many circumstances, emerging drivers will have to have an available visibility of 50 metres in both directions.

Report of [REDACTED]  
The Beach House entrance at Green Island

- 2.4 Interestingly, the graph that appears in their own documentation only covers 85<sup>th</sup> percentile speeds of between 20 and 40 MPH. Obviously at speed less than 20 MPH would require less visibility to be deemed safe.
- 2.5 I am unaware if any research has been carried out on this particular slipway in order to ascertain the speeds of vehicles using it, however from personal knowledge of this area I would suggest that these speeds are relatively low and closer to pedestrian walking speeds than that of vehicles travelling along any road.
- 2.6 As a result I would suggest that the available visibility from this property as detailed in the plan drawn by [REDACTED] is perfectly adequate and appears to far exceed the above safety guidelines.
- 2.7 As far as visibility for pedestrians using the slipway: As I understand it the height of the walls on both sides of the entranceway together with the slope of the driveway allows for adequate visibility as specified in the guidelines and would not create any unnecessary dangers.

### 3. Summary

- 3.1 I am of the opinion that the available visibility for vehicular traffic exiting the driveway onto the slipway at Green Island is perfectly adequate considering the very slow speeds of any vehicles using that slipway.
- 3.2 I am also of the opinion that it is perfectly adequate in relation to the safety of any pedestrians using the slip.
- 3.3 Although the Transport and Technical Services Dept guidelines appear to apply more to public highway use and areas where the traffic speeds

Report of [REDACTED]  
The Beach House entrance at Green Island

are much greater, the amount of visibility available here would appear to fully comply with those guidelines.

- 3.4 Indeed, in comparison to many driveways and entranceways found along Jersey's country roads, this driveway appears to far exceed any safety requirements.

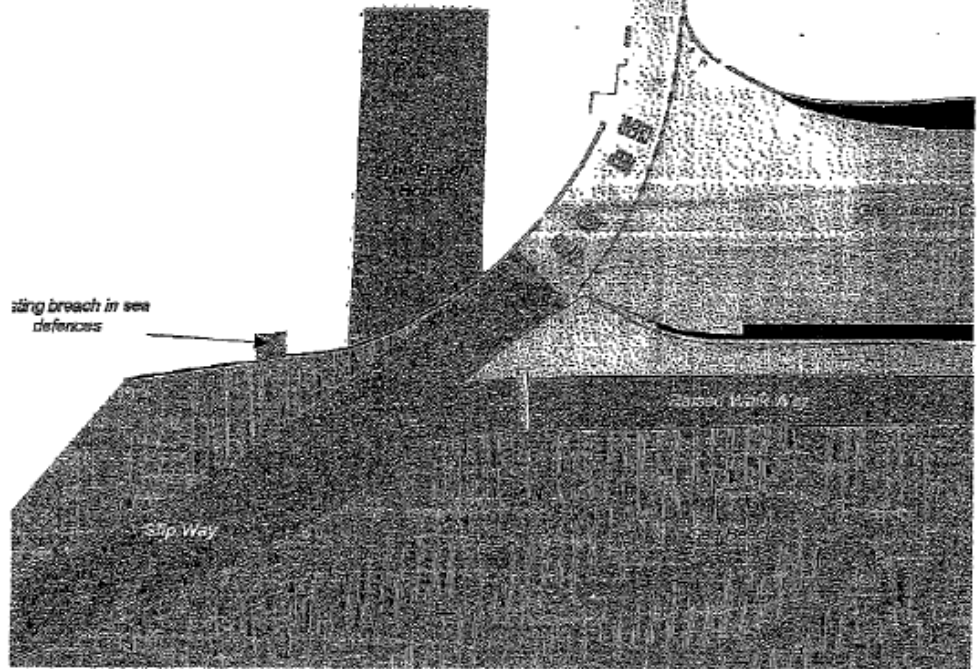
Signed.....

[REDACTED] MLTAJ R.F.P

Defences in relation to  
Beech House



Access road to La Grande Route  
de la Cote

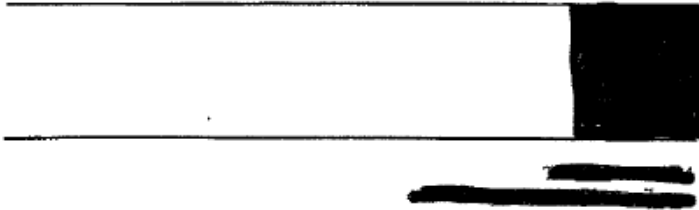


slip break in sea  
defences

Slip Way

HEALTH AND SAFETY REPORT FOR CREATION OF ENTRANCE

10.



Report on the safety implications following proposed  
siting of entranceway to property 'Rock View' from  
Green Island Car Park, St Clement.

Prepared for



Report prepared by: [REDACTED] MITAL RFP



Dated 6<sup>th</sup> April 2006

**1. Introduction**

1.1 I am [REDACTED]. My specialist field is road traffic crash investigation. I am a member of the Institute of Traffic Accident Investigators and my background is that I have been a Police Officer for 21 years.

1.2 I was a police officer with the States of Jersey Police between 1990 and 2004 and have been involved in collision investigation since 1991. In my last year with the States of Jersey Police I was the Senior Collision Investigator.

1.3 I left the States of Jersey Police to join Avon and Somerset Constabulary where I am now attached to a full time collision investigation unit.

1.2 I have been asked to comment on some concerns that have been raised in relation to the creation of a vehicular access to the site known as 'Rock View' at Green Island in St Clement. I understand that these concerns relate mainly to the safety of users of the slipway at Green Island, where this access would exit the property.

1.3 In order to assist this report I have surveyed the area in question and have attached a scale plan to this report.

**2. Comment**

2.1 Green Island car park is a public car park servicing a major beach on the Southeast coast of Jersey.

Report of [REDACTED]  
Rock View entrance at Green Island

- 2.2 It is situated within a residential area of the parish of St Clement and is off the main coastal road. The layout of the car park allows for two lines of parked vehicles along the central area and another line along the southern edge of the car park.
- 2.3 As well as servicing a major beach there is also a popular café and restaurant located alongside the west side of the car park.
- 2.4 A number of residential properties surround the west and the north of the car park and both sides of the road/entranceway to the car park. All these properties have private driveways leading either onto the car park or the entrance to the car park.
- 2.5 Along the southern edge of the car park there is a promenade and a sea wall leading down to the beach below. The drop from the top of this wall to the beach is approximately 3.5 metres.
- 2.6 In the Southwest corner of the car park there is a long slipway leading down onto the beach. To the west of this slipway, along the beach, there is another sea wall protecting the residential properties beyond it. At the point where the wall joins the slipway there are a number of steps leading from the car park to the beach. These run alongside the sea wall.
- 2.7 In the summer months the area is obviously busy with visitors to the beach. The top area of the slipway is used both as a pedestrian access to the beach and as a parking area for vehicles. Whilst the creation of such an access to 'Rock View' will have an impact on these other users of the slipway, I do not believe it would create any particular safety problems.
- 2.8 Again in the summer months, vehicles use the slipway for additional parking. Although this should be limited to one side of the slipway only

Report of [REDACTED]  
Rock View entrance in Green Island

– it is normal to see vehicles park on both sides, particularly at the top end.

- 2.9 The proposed entranceway to Rock View would be sited in the sea wall between the top of the slipway and the restaurant. The height of this sea wall is in the region of 1.2 metres and the land behind it runs from the top of that wall i.e. is 1.2 metres above the level of the slipway. The level of the slipway in this area is some 3.6 metres above the height of the beach.
- 2.10 Once the wall is breached to site the entranceway the drive behind would have an uphill gradient to the level of the existing land. Thus the apparent breach in the sea wall would not allow any increased ingress of seawater during high tides. The water would be able to run up the driveway but due to its gradient, only a very short distance.
- 2.11 It is worthy of note that, 18 metres west of the proposed entranceway, there is already a breach in the existing sea wall to allow access from the beach to several private residential properties. The height of this gap in the wall is 0.88 metres below that of the proposed entranceway. I am unaware of any existing flood defence issues with regard to this gap in the wall – it is hard to imagine that the proposed entrance would cause any either.
- 2.12 As previously stated, in the summer months vehicles park on both sides of the top section of the slipway. This could have a major factor on safety as it could restrict access to the slipway for the emergency service vehicles if required.
- 2.13 The siting of this entranceway would lessen that potential danger, as it is likely that the majority of drivers would not park across a private driveway – thus keeping that side of the slipway clear. Indeed I know of no instances where parked vehicles have obstructed any of the other

Report of [REDACTED]  
Rock View entrance at Green Island

driveways located around the car park. I fail to see how this driveway would be any different.

2.14 With regard to safety, it is my view that the creation of this extra driveway would cause no extra danger to either pedestrians or other vehicles using the car park. It certainly would not create any more risk than any of the other six entrances around the car park – two of which also lead directly onto the car park itself. The only vehicles using this area are those proposing to use the slipway – and thus should be slow moving.

2.15 At the top of the slipway, adjacent to the site of the proposed entrance, there are a number of steps enabling pedestrian access to the beach. I fail to see how the entranceway would offer increased danger to anyone using those steps either. In fact it would probably be less dangerous with the removal of the cars that are currently able to park in that area. It minimises the potential for pedestrians walking between parked vehicles.

2.16 Any vehicle exiting or entering this driveway would have to do so at very slow speed – it would be impossible to do otherwise. As a result I am satisfied that there is no increased danger to pedestrians using this area of the car park.

### 3. Summary

3.1 I am of the opinion that no extra danger would be caused to any person using this car park due to the siting of the proposed entranceway to Rock View.

Report of [REDACTED]  
Rock View entrance at Green Island

- 3.2 Any argument put forward suggesting that it would cause such a danger **MUST** equally apply to the other driveways already present. Indeed my personal observations of vehicular movement within the car park show that vehicles are driven past existing entrances at greater speeds than one would expect on a cobbled slipway.
- 3.3 I am not aware of any injury accidents having occurred in this car park as a result of the positioning of the entrances – and I see no reason to believe that any would result in the siting of this entranceway.
- 3.4 Due to the height of the slipway at this point in the sea defences there would also be no increased risk of sea water breaching the sea wall. Indeed the existing gap in the sea wall to the west of this site is 0.86 metres below this proposed entranceway – far more likely to allow sea water through existing sea defences.

Signed.....

[REDACTED] MITAI R.F.P

#### 4. Appendix 1

##### Qualifications and Personal Experience.

- 4.1 I am currently employed as a Collision Investigator within Avon and Somerset Constabulary. I have twenty-one years experience in dealing with and investigating traffic related matters.
- 4.2 In 1991 I attended an initial course in Accident Investigation and in 1992 I passed a City and Guilds of London Institute Certificate in *Road Accident Investigation for Police Officers*. I am, by qualification and experience, a full member of the Institute of Traffic Accident Investigators.
- 4.3 I am qualified to use the "Topcon 703" surveying equipment and associated LSS McCarthy Taylor software for scene/plan reproduction. I am also qualified to use "Relmo", an object based digital terrain mapping program that provides 3D views and real time animation.
- 4.4 I have also attended courses specialising in the techniques of Road Safety Auditing, as well as Conferences dealing with all aspects of Road Safety and Crash Investigation.
- 4.5 As a result of previous crash investigations I have undertaken, road safety road issues, previously unidentified, have been highlighted and junctions have been physically altered in compliance with my recommendations.