

3 January 2014

Deputy S J Luce
Chairman, Economic Affairs Scrutiny Panel
Scrutiny Office
States Greffe
Morier House
St Helier



Our ref: 515.29 (5)
Your ref: 3/25

Dear Deputy Luce

Economic Affairs Scrutiny Panel: Retail Policy Review

I write in reply to your letter dated 4 December 2013 and would respond as follows.

Planning and Environment Minister's Remit

The Minister for Planning and Environment is responsible for all planning and building control matters and for Jersey's environment in its widest sense, including environmental policy and regulation, and water resources and waste management regulation. His role, in so far as it affects retailing in Jersey, is outlined below.

Law and policy

Jersey has a 'plan led' planning system which means that the Island Plan is the primary consideration in any planning related decision making process. The Planning and Building (Jersey) Law 2002 requires that all development should be in accordance with the Island Plan unless there is sufficient justification for granting planning permission that is inconsistent with the plan. The Minister is required to have regard to all material considerations when determining an application and to give reasons for the award or otherwise of planning permission.

In addition to the principal law, the Planning and Building (General Development) (Jersey) Order 2011 defines the use of land and buildings, with specific reference being made to shops and the various forms of permitted retail activities that can occur without planning consent. Also, the display of advertisements, which among other things, includes retail advertising, is controlled under the Planning and Building (Display of Advertisements) (Jersey) Order 2006, requiring a formal application be made for certain types of advertising display.

The principal challenges for the Island's Building Byelaws arise when retail premises are 'fitted out'.

Planning policy - key consideration for retail development

Successive Island Plans have sought to uphold and support the role of St Helier as the primary focus for shopping in Jersey, whilst recognising the role of other local centres, and that policy has for the most part been successful. A report into the Island's retail offerⁱ, conducted to inform the development of the 2011 Island Plan, drew the following conclusions:

- *St Helier Town Centre is a very attractive historic centre, with a wide range of retailing and services. We consider that it is providing well for the needs of shoppers and other town centre users in most respects.*
- *The existing food stores on the Island are well distributed to serve the main concentrations of population, both for main food shopping and local walk-in shopping. There are therefore no conspicuous weaknesses in terms of the spatial distribution of food stores.*

Outside town, there are a number of other centres where there is a range of shops. The largest is Red Houses, but Gorey, St Peter's Village, St Aubin, St Ouen's Village and St John's Village also have a significant local role.

The move to out-of-town supermarkets, as experienced in the UK and continental Europe, has been largely resisted, although there has been significant expansion of some peripheral stores. New retail warehouse uses have been restricted to the Built-up Area in accordance with the Island Plan.

There has been growth in out-of-town shopping at garden centres such as Ransoms and St Peter's Garden Centre and there has also been a trend towards the expansion of retailing from garage forecourts and the expansion of farm shops.

Current planning policy framework: 2011 Island Plan

The principal thrust of the 2011 Island Plan's retail policies is to enhance the vitality and viability of the Island's shopping centres and to maintain their attractiveness. This approach seeks to ensure that any out-of-centre retail development does not have a harmful impact on Jersey's existing shopping centres.

In the prime frontages of the town centre, planning policies seek to ensure that retail uses are retained, although complementary uses such as banks and cafes will also be allowed in order to attract people to the Town Centre.

The policies also aim to make the centres more attractive by promoting environmental improvements and additional facilities for shoppers where they are part of major retail proposals. The objective is to make it easier for people to shop in the town centre, to offset any possible harmful impact that development may have, to support the regeneration of the town, to boost the amount of retailing in the two main centres and to encourage new residential uses in St Helier, and to encourage more people to live close to, and shop, in the centre.

The Island Plan policies for the economy are proactive in giving encouragement to development opportunities for retail activity by protecting and supporting the expansion of shopping in the town centreⁱⁱ. The Island Plan designates land between Broad Street and Commercial Street for retail expansion and promotes the creation of a new retail route

between Broad Street and the Esplanade. In addition, provision is made for retail development opportunities within the St Helier Waterfront and North of St Helier masterplans.

The Island Plan concentrates on protecting and enhancing the town centre as the focus of commercial retail and seeks to ensure that new large-scale food and non-food shopping is located in the town centreⁱⁱⁱ and requires developers to apply a sequential approach to site selection commencing with the town centre and then edge-of-centre and then other locations within the town. In addition, the policies require developers to undertake a retail impact assessment which enables the Minister to understand the impact of the proposals against possible objections that may be received.

The policies also seek to protect and promote shopping within defined local centres and will allow the development of new small local shops provided they do not harm the character and amenity of the area, and the developer will normally be asked to provide a retail impact assessment to demonstrate this.

Whilst the thrust of the retail policies seeks to protect the town centre and existing local shopping centres as the focus of retail activity, the Island Plan also makes provision for small scale, ancillary, retail development and farm shops that may emerge from time to time, but with the proviso that such proposals do not undermine the town centre, the town markets or local shopping centres.

In addition to the Island Plan economic policies there are other planning considerations that may have an influence on an application, and which applicants will be made aware of when applying for pre-application advice, such as design quality, historic buildings policies and restrictions, and countryside policies.^{iv}

Development Control

The Development Control section is responsible for assessing planning applications against the Island Plan policies and making recommendations accordingly, and an applicant seeking to progress an application for a retail proposal would typically expect the following process to be followed.

Pre-application stage

- Pre-application advice provides developers with a professional planning opinion on their proposals enabling developers to determine the viability of their proposals and decide whether to make an application.

Application stage

On the basis of the pre-application advice given, a developer may decide to make a planning application, when the following process will apply:

- The planning application is registered within 5 working days
- Site notices displayed for 21 days
- Advertise planning applications in the Jersey Gazette
- 21 days for neighbours and islanders to respond to your planning proposals

- Assessment of application, plans and all correspondence received
- Determining the planning application within 13 weeks

Recent developments which have been subject to retail policies.

Iceland (formerly Big Deal Carpets), St Peter – Policy E1 - protection of employment land policy enabled the Minister to resist the redevelopment of the Big Deal Carpet shop for residential development (P/2011/0891), thus ensuring that this site remained available for retail use, enabling Iceland to successfully open.

United Foods Ltd, Centrestore, Trinity (P/2012/1381) – The application to create a small retail outlet in part of the warehouse was rejected. The applicant's case was based on the fact that they sell specialist foods to a small group of people and it was cheaper to set up a retail area in the warehouse rather than pay higher rents for established retail premises.

It was considered that this was an insufficient argument and did not represent an exceptional circumstance, and would potentially be difficult to resist others to do the same, damaging the existing retail centres.

Policy ER10: Retail development outside the Built-up area and Policy NE7 – Green Zone, enabled the Minister to resist the proposal.

Co-Op (formerly De La Mare Florists), Grouville (P/2013/1315) – A combination of Policies ER3 and ER4 enabled the Department to negotiate an acceptable scheme and to recommend approval; the application currently awaits determination.

Sign and adverts

The display of advertisements is controlled under the Planning and Building (Display of Advertisements) (Jersey) Order 2006. This requires that a formal application be made for certain types of advertising display.

The Minister provides Supplementary Planning Guidance for signs and advertisements which inform applicants of what might be acceptable. Accordingly, the approval rate for retail signs is high and most applications are normally determined within six weeks.

Building Control

From a building bye-law perspective the main challenges that are likely to arise are those relating to shop 'fit outs' when premises change hands.

Re-fitting shop premises, i.e. new shop fronts, replacement lighting, ventilation, and heating and cooling systems, alterations to internal layouts, new internal finishes such as new ceilings and wall linings, alterations to changing and toilets facilities, all fall within the definition of 'building work' for which bye-law permission is required, so this needs to be factored in when a new or existing business venture is proposed in re-furbished premises.

Normally, the process is straightforward and Building Control typically issue permits well within the five week target.

However, when UK chains are involved they invariably use UK architects who may not always appreciate the need to obtain building permission before works start on site and this can result in surprises and even delay to programmed works. So the challenge for the retail industry is to get the message across to plan ahead to achieve a smooth approval process and use architects who fully understand the Jersey system of building control.

Enforcement

The Enforcement Team at the Planning and Building Division of the Department of the Environment investigates allegations of breaches of the planning law and the building by-laws.

Possible complaints in respect of retail development dealt with may include:

- claims that development has been carried out without permission, or in a way that is contrary to approved plans
- allegations that the use of a property has changed without authorisation
- unauthorised signs and advertisements.

Yours sincerely

Deputy R C Duhamel

ⁱ Jersey Retail Study (2008) DTZ (see:

<http://www.gov.je/SiteCollectionDocuments/Planning%20and%20building/R%20JerseyRetailStudyDTZ%202008.pdf>)

ⁱⁱ 2011 Island Plan Policies BE1 Town centre vitality; E1 Protection of employment land; ER1 Retail expansion in the town; ER2 Protection and promotion of St Helier for shopping.

ⁱⁱⁱ Island Plan policy ER7 Large-scale food retailing.

^{iv} Island Plan Policies SP4 Protecting the natural and historic environment; GD1 General development considerations; GD7 Design quality; GD9 Signs and advertisements; BE7 Shop fronts; NE7 Green zone.

All 2011 Island Plan retail policies can be found here:

<http://www.gov.je/SiteCollectionDocuments/Planning%20and%20building/IP%202011%20Economy%20Pages%20171-226.pdf>