

STATES OF JERSEY



ISLAND PLAN 2002, POLICY H2: FIELD 91, ST. CLEMENT (P.70/2006)– COMMENTS

**Presented to the States on 13th July 2006
by the Minister for Planning and Environment**

STATES GREFFE

COMMENTS

Introduction

The Proposition requests that I amend the Island Plan 2002 in order that Field 91 is redesignated as Important Open Space and would thus be covered by Policy BE8 of the same Plan (Appendix 1), (Important Open Space). At present Field 91 is designated as lying within the Builtup Area. This means it falls to be covered by Policy H8 (Appendix 2), (Housing Development within the Builtup Area) within the Island Plan. In effect this Proposition seeks to move Field 91 from a zoning regime which presumes in favour of development, to an area where there is both a presumption against development and the retention of the land as open space.

Background

In answering this request the House needs to be mindful of recent planning history in relation to this site. A revised planning application has been made for the construction of 12 three-bedroom houses with garages. The scheme has been amended on a number of occasions at the request of the Panel. The application was first submitted in May 2005 and sought consent for 20 two-bedroom houses. The Panel have not yet considered the scheme for 12 houses. Advice was also offered to the applicant prior to the formal submission of the application. That advice took the lead given by the Island Plan and suggested that the development of the land was acceptable in principle provided it satisfied the detailed criteria set out within Policy H8 (Appendix 2).

At the same time as the current application was submitted, the States should be aware that Senator Norman brought a Proposition in May 2005, asking that Field 91 be designated as Important Open Space. The Proposition was not supported. In putting his case Senator Norman made reference to the more general impact of recent development upon St. Clement and the extent to which many areas of open space had been lost to new housing development.

The case advanced by Deputy Gorst falls back on the same arguments, focusing on the scale of the development that St. Clement has accommodated particularly in relation to other parishes and the importance of retaining this "green lung". He also refers to the growing "social problems" experienced by the parish and the extent to which the retention of the area as open space will limit or restrain these problems.

Analysis

There are two issues that the States need to address in considering this Proposition. The first is the particular nature of the site, its context and the position taken by the Panel in considering the present application. The second is the decision process which I as Minister must adopt in considering the planning application within the terms of the Planning Law. The second is extremely important. I am obliged, in assessing the application, to take into account all the material circumstances of the case. This includes specifically the policies set out within the Island Plan, any site-specific planning guidance and the comments made by those parties who have responded to consultations and the views expressed by residents where they are valid. The Island Plan agreed by the States (2002) and endorsed by the States again (in relation to this site), (2005) has already clearly indicated the intended use of this land. In particular the policy giving guidance to development within the Built-up Area sets out a range of criteria which must be satisfied if consent is to be granted.

These criteria, taken in conjunction with the zoning within the Island Plan, act as a statement of intent and set the context within which I will work in considering development proposals. The applicant has justifiably placed reliance on these documents and criteria in preparing the application and can legitimately expect an application to stand a reasonable chance of success if it demonstrates compliance with them. Whilst I recognise that the States may wish to express a view in response to the Proposition by the Deputy, the view expressed by the States cannot represent a material consideration and therefore is not a legitimate issue to take into account in determining the current application. To that extent, I would be on dangerous ground in refusing consent for this scheme based on a view expressed by the States if there had been no material change in the circumstances of the site, no new planning factors had been brought to light and no new overriding public interest issues had arisen. If I were to effectively revise the zoning of this site to the extent that there would be a presumption against development, then the applicant would have a strong prospect of success on appeal to the Royal Court. It may be that the Royal

Court would impose their own decision in respect of the development or instruct me to approve with the subsequent prospects of costs being awarded against me.

The Planning Applications Panel, in considering the application to date, has suggested a number of changes to the scheme as originally submitted. In doing that they have taken into account representations from residents of the area. They have visited the site and listened to the residents likely to be most directly affected. They have insisted that the proposed scheme be altered to reflect and meet those important criteria set out within Policy H8. This has to date resulted in a reduction in the numbers and the scale of the development proposed. No consent has been granted for the development but the indication so far is that the negotiated scheme would be low density, designed to respond and recognise representations received from adjoining residents.

The Site

The site is a relatively small flat field measuring approximately one acre. The field is currently fallow and not in cultivation.

The Deputy claims that it is an “oasis” or area of “significant open space”. However, the context and scale of the field make this assertion hard to justify. It is enclosed by development but provides no open vistas northwards from La Route de la Cote. It is privately owned and presently offers no public access. It has no distinguishing tree cover or variation in topography which gives it visual substance or character. Both the Panel and I are aware of the concerns of local residents. Their concerns have been heard, and as a result substantial changes made to the scheme specifically to respond to their concerns. The Panel have addressed such matters as overlooking, prejudice, traffic and security. I am not prepared to support anything other than a scheme which respects the concerns of those most likely to be affected by the development.

I believe that the site has a number of important characteristics that could be regarded as supporting the principle of a small-scale residential development. It will have adequate and improved access to La Route de la Côte and to public transport services going east and west. It has schools in close proximity which have capacity, and other community services and shops close by. It has access to existing sewers which have capacity. The site displays characteristics that justify development when held against the principles of sustainable development. Policy G1 (Sustainable Development) Appendix 3.

The considered and appropriate development of this field can help contribute to States objective of providing housing opportunities for all the Island’s residents.

I believe that it is inappropriate to depart from the current zoning of the site within the Island Plan. On planning grounds I therefore cannot support the Proposition.

POLICY BE8 – IMPORTANT OPEN SPACE

There will be a presumption against the loss of important open space as designated on the Island and Town Proposals Maps.

In order to better understand the function and rôle of open space, the links between spaces and to identify areas of need or shortfalls in space provision, the Planning and Environment Committee will initiate the preparation of open space strategy.

POLICY H8 – HOUSING DEVELOPMENT WITHIN THE BUILT-UP AREA

Proposals for new dwellings, extensions or alterations to existing dwellings or changes of use to residential, will normally be permitted within the boundary of the built-up area as defined on the Island Proposals Map, provided that the proposal:

- i. is in accordance with the required standards for housing as set by the Planning and Environment Committee;
- ii. will not unreasonably affect the character and amenity of the area;
- iii. will not have an unreasonable impact on neighbouring uses and the local environment by reason of noise, visual intrusion or other amenity considerations;
- iv. will not have an unacceptable impact on a Site of Special Interest, Building of Local Interest, or a Conservation Area;
- v. will not lead to unacceptable problems of traffic generation, safety or parking;
- vi. makes use of existing buildings where possible;
- vii. is appropriate in scale, form, massing, density and design to the site and its context;
- viii. incorporates where appropriate satisfactory provision of amenity and public open space, to include landscaping and children's play space;
- ix. makes provision for satisfactory mains drainage and other service infrastructure;
- x. takes into account the need to design out crime and facilitate personal safety and security; and
- xi. is in accordance with other principles and policies of the Plan.

Proposals which do not satisfy these criteria will not normally be permitted.

Innovative approaches to the conservation of existing buildings to residential use will be encouraged where they conform with the other principles and policies of the Plan.

POLICY G1 – SUSTAINABLE DEVELOPMENT

In accordance with the principles of sustainable development and the Island Plan objectives, all development proposals should in particular seek to:

- i. integrate new development with the existing built-up area;
- ii. promote the vitality and viability of the town of St. Helier and the defined rural and urban settlements;
- iii. re-use already developed land;
- iv. support an overall pattern of land-uses that reduce the need to travel and promote increased use of public transport, cycling and walking;
- v. conserve or enhance the natural environment and cultural heritage of the island; and
- vi. minimise impacts on the Island and global environment.

Applications which do not support these principles will not normally be permitted.