

**WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT  
BY DEPUTY J.H. YOUNG OF ST. BRELADE  
ANSWER TO BE TABLED ON TUESDAY 15th JANUARY 2013**

**Question**

Will the Minister confirm that his decision ref (MD-PE-2012-0120) dated 23rd November 2012 to approve the Plémont Bay Holiday Village application requires a planning obligation agreement to be entered into between the Minister and the applicant before the planning permit has any legal effect and, if so, will he inform the Assembly of the arrangements he proposes to reach agreement with the applicant and obtain any required prior approval from the Assembly or other Ministers, including the following matters requiring prior agreement;

- (a) an appropriate body or trust to which the open land to be created outside the three housing clusters, is ceded by the applicant for public access in perpetuity in accordance with a scheme of public access determined by the Minister;
- (b) the commuted sum payable by the applicant to the appropriate body or trust to fund the landscape maintenance regime works required to be carried out for at least 25 years;
- (c) the restrictive covenants to be included in the contracts of sale of the houses proposed to be built, to prevent their owners and occupiers from using the land out-with their domestic curtilage for domestic purposes?

**Answer**

I can confirm that the planning permission which I will issue for the Plemont Bay Holiday Village will be subject to a planning obligation agreement between the Minister for Planning and Environment and the applicant which addresses the points in paragraphs (a) – (c) of the Deputy's question.

As to the detailed arrangements of the agreement, these are currently being drafted and will be the subject of discussion between the officers of the department and the representatives of the applicant. The applicant may only enter into a planning obligation agreement with the Minister for Planning and Environment and the Planning and Building (Jersey) Law 2002 does not require the Assembly or other Ministers to approve the planning obligation agreement. Once agreed, the planning obligation agreement will be a matter of public record.

I include details of the Ministerial Decision (MD-PE-2012-0120) I made in relation to the Plemont Bay Holiday Village planning approval, and the associated planning obligations and conditions.

## Plemont Bay Holiday Village: Public Inquiry

A decision made 23 November 2012:

Decision Reference: MD-PE-2012-0120		Application Number: P/2011/1673	
Decision Summary Title(File Name):	Plemont Bay Holiday Village, La Route de Plemont, St. Ouen, Jersey, JE3 2BY	Date of Decision Summary:	14 /11/ 2012
Decision Summary Author:	Senior Planner Alistair Coates	Decision Summary: Public or Exempt?	Public
Type of Report: Oral or Written?		Person Giving Oral Report:	
Written Report		Date of Written Report:	6 /11/ 2012
Written Report Author:	Mr Alan Langton Independent Planning Inspector	Written Report :	Public
<p>Subject: Plemont Bay Holiday Village, La Route de Plemont, St. Ouen, Jersey, JE3 2BY</p> <p>Demolish all existing buildings and remove hard-standings. Return 67% of total site area (16.19 vergées) to public accessible natural landscape. Replace existing Manager's bungalow/Staff cottage with 2 No. four bed houses and construct 26 No. houses comprising of 10 No. three bed houses, 11 No. four bed houses and 5 No. five bed houses all in three groups plus landscaping, footpaths and reed-bed rainwater recycling pond. Create passing place on C105 at Western edge of Field 48.</p>			
<p>Decision(s):</p> <p>The Minister has resolved to approve the application, subject to the completion of a Planning Obligation Agreement and to the compliance of Conditions. The terms of these Obligations and conditions is as follows:-</p> <p>The applicant shall, prior to any demolition or construction works, enter into a formal obligation with the Minister for Planning and Environment under Article 25 of the Planning and Building (Jersey) Law 2002. The planning permit shall not have any effect until such planning obligation agreement is completed, signed and lodged with the Greffe. Thereafter, the conditions attached to the permit shall take full effect.</p> <p>Unless otherwise agreed by the Minister, the obligation shall, in relation to the development approved under this permit, guarantee the provision of the following;</p>			

## Obligations

a) Prior to completion of the development the Applicant shall cede the open landscape created outside the boundaries of the three housing clusters (as defined on drawing no. 1871-08-68 Areas 2, 3 & 4) to an appropriate body or trust, with full agreement of the Minister, for allowing public access in perpetuity in accordance with a scheme of continued access to be agreed in writing with the Minister. The land shall not be ceded until the landscaping as set out in the approved plans has been completed to the satisfaction of the Minister.

b) The Applicant shall submit a commuted sum payment and shall undertake, or arrange and fund for the body or trust referred to in a) above, to undertake, landscape maintenance regime works for a period of at least 25 years after completion of the development, in accordance with a comprehensive programme to be agreed in writing by the Minister. Such programme shall include a monitoring schedule and provision for the maintenance regime to adapt according to the findings of the monitoring schedule and shall further include details of a covenant relating to the Conditions of Sale with the express aim of preventing home owners / occupiers from using land outwith their domestic curtilage for domestic purposes.

c) The Applicant shall provide appropriate funding towards a research and monitoring programme for conservation of Puffins and seabirds.

d) The German Coastal Observation Post (M3) shall be refurbished as a publicly accessible bird hide by the Applicant, or with full funding from the Applicant, in accordance with a scheme to be agreed in writing by the Minister. The works shall be completed before any of the approved dwellings are occupied and the Observation Post shall remain in, or revert to, the ownership of the Public.

e) The Architect appointed in the development of the scheme hereby approved (BDK Architects) shall be retained throughout all the construction phase of the development. Prior to the occupation / use of each dwelling of the development, the Architect must give written confirmation to the Minister that he or she is satisfied that the building has been completed in accordance with the approved plans and that the quality of materials and workmanship is of the highest possible order. The Minister reserves the right to request minor amendments to the approved development following advice from the Architect.

f) The Landscape Architect appointed in the development of the landscaping scheme hereby approved (Michael Felton Ltd.) shall be retained throughout all the landscaping (both hard and soft) phase of the development. Prior to the occupation / use of each element of the development, the Landscape Architect must give written confirmation to the Minister that he or she is satisfied that the landscaping has been completed in accordance with the approved plans and that the quality of materials, planting and workmanship is of the highest possible order. The Landscape Architect shall liaise directly with the Department, including the Environment Division and the Minister reserves the right to request minor amendments to the landscape proposals following advice from either the Environment Division or the Landscape Architect.

## Planning Conditions / Reasons

1. The development shall be carried out strictly in accordance with the approved plans, drawings and schedules, and strictly in accordance with the submitted reports. No variations shall be made

without the prior written approval of the Minister for Planning and Environment.

For the avoidance of doubt and in accordance with the requirements of Policy GD 1 of the Adopted Island Plan 2011.

2. Physical samples of all external materials to be used as identified on the approved Schedule of Required Sample Panels / Assemblies, dated 9 September 2010 shall be submitted to and approved in writing by the Department prior to such materials being used.

To safeguard the character and appearance of the area and in accordance with the requirements of Policies GD 1 and GD 7 of the Adopted Island Plan 2011.

3. Prior to the commencement of development, the finished floor levels, eaves and ridge heights of each dwelling shall be approved in writing by the Department. On sloping ground, detailed sections indicating the precise level of cut and/ or fill shall be similarly approved. No such approved level shall be exceeded without the express written approval of the Department.

For the avoidance of doubt and in accordance with the requirements of Policy GD 1 of the Adopted Island Plan 2011.

4. Notwithstanding the provisions of the Planning and Building (General Development) (Jersey) Order 2011, or the provisions of any Order that replaces, amends or supersedes the 2011 Order, no alterations, additions, extensions (including loft conversions, conservatories, conversion of garages and car-ports to any other habitable space and, external lighting to dwellings and vehicular areas), windows, doors, external utility meter boxes, fences, walls, sheds or other structures shall be installed, affixed or erected on any part of the site or building therein without the prior written approval of the Department.

To enable the Minister for Planning and Environment to control the development and so safeguard the character and visual amenities of the area and to ensure that adequate private amenity space is retained within the curtilage of the dwelling in compliance with the requirements of Policy GD 1 of the Adopted Island Plan 2011.

5. In respect of the provisions of Condition No. 4 above, a 'pattern book' shall be produced by the retained Architect for the applicant / developer detailing the form, style, materials and positioning of any future alterations, additions or extensions to the proposed dwellings that would respect the vernacular architecture of the development. Such a pattern book shall be submitted to the Department for written approval and shall thereafter, and without prejudice to any future decision, be used as guidance when assessing future planning applications relating to each dwelling.

The Minister considers that the production of a pattern book would be an appropriate mechanism by which to guide any subsequent planning application for alterations or extensions to the new dwellings.

6. Before the dwellings are occupied, the proposed means of boundary treatment to all external aspects of the development and between dwellings shall be submitted to and approved in writing by the Department. The use of low granite walls, banques, post & rail fences and hedgerows will

be required in accordance with the approved drawings.

To safeguard the character and appearance of the area in accordance with the requirements of Policy GD 1 of the Adopted Island Plan 2011.

7. The stated Mitigation Measures, as embodied in the Environmental Impact Statement and supporting documents, and all other recommendations of the Environmental Impact

Assessment and, any additional or revised measures as may be required by the Department as a result of a specific concern or consultation response, shall be implemented in accordance with a schedule of works, timings and on-going monitoring / remediation to be agreed in writing by the Minister.

The Minister considers that the proposed development may not be acceptable without the implementation of the stated mitigation measures.

8. All demolition and groundworks shall be undertaken outside the main bird breeding season (April to August), unless written authority for specific elements of the proposal is given by the Department's Environment Section.

In the interests of minimising disturbance to seabirds which form an important element of the Island's bio-diversity.

9. A rat eradication programme and programme for the clearance of invasive plants (including Hottentot Fig) shall be agreed and implemented to satisfaction of the Environment Department prior to any demolition works taking place.

In the interests of allowing less invasive native species to establish within the area.

10. A detailed landscaping scheme shall be submitted prior to the commencement of the development to show sensitive planting with relevance to the landscape character and wildlife habitats of this area. The scheme shall provide for locally relevant habitat creation and shall be drawn up in consultation with the relevant Officers of the Planning & Environment Department's Countryside Section. Such scheme shall be completed prior to any sale of property on the site.

To safeguard the character and appearance of the area in accordance with the requirements of Policies GD 1 and NE 4 of the Adopted Island Plan 2011.

11. Precise details of the proposed means of foul and surface water drainage, including full details of the reed-bed ponds and measures to store and re-use rainwater where practicable shall be submitted to and approved in writing before works commence. A sustainable drainage system will be required.

In order that such details can be the subject of further consideration by the relevant bodies to ensure that the site and development is adequately drained.

12. Precise details of types, positions, luminosity, shielding and justification for each external light, including measures to minimize sky-glow shall be submitted to and approved in writing by

the Department before the development commences.

In order to prevent unnecessary light pollution in this sensitive headland setting.

13. The garages to all the houses shall not be used for any purpose other than those incidental to the enjoyment of a dwelling house but not including use as habitable accommodation.

To safeguard the character and appearance of the area and to ensure the provision of adequate parking accommodation within the three housing clusters and to avoid congestion by residents vehicles of adjoining lanes or public parking areas in accordance with the requirements of Policy GD 1 of the Adopted Island Plan 2011.

14. Reasonable access shall be given at all reasonable times for archaeological work. Reasonable access shall also be given to a nominated member(s) of the Department's Historic Environment Team, Jersey Heritage Trust and the Channel Island Occupation Society for the purpose of observing and recording any Occupation structure or other archaeological finds. A minimum of 3 weeks written notice shall be given to each party prior to any works commencing. All finds and records of archaeology shall be safeguarded and lodged with the Department.

The Minister is aware that the site may hold archaeological finds, including Occupation material and wishes to ensure that appropriate opportunity is given to record such objects.

15. Prior to completion of the development the Applicant shall provide and pay the costs for the construction of a bus shelter at the south-western end of the central area footpath, to a design and details approved by the Department.

In order to promote the use of public transport.

16. A work of art shall be delivered in accordance with the advice of the appointed Approved Art Advisor and the Percentage for Art Statement dated 10th September 2010 which has been submitted to and approved by the Minister for Planning and Environment. The work of art must be installed prior to the first use/occupation of the development hereby approved unless otherwise agreed in writing.

To comply with the provisions of Policy GD 8 of the Adopted Island Plan 2011.

17. Details of the siting and nature of all temporary site huts, compounds, security fencing, security lighting, fuel storage and waste disposal during the demolition and construction phases shall be submitted to and approved by the Department before works commence. Should additional elements be required during the course of works, subsequent approval from the Department shall be required.

To ensure that all construction / demolition related materials and operations do not result in unacceptable damage to the local environment.

18. Prior to commencement of the development, full details shall be submitted to the Minister to demonstrate how the proposed development will incorporate on-site low carbon or renewable energy production to off-set predicted carbon emissions by at least 10% or shall fully demonstrate

that the proposed development will otherwise off-set predicted carbon emissions by at least 10% by alternative means. Any such measures as may be approved shall be implemented, retained and maintained in accordance with the submitted and approved details.

To ensure that the development complies with the provisions of Policy NR7 of the Island Plan.

Reason(s) for Decision:

The Minister has resolved to approve the application, subject to the completion of a Planning Obligation Agreement and to the compliance of Conditions.

In reaching his decision, the Minister paid special regard to the Independent Inspector's Report and recommendations into the Public Inquiry which was held over the days of 25 / 26<sup>th</sup> September 2012 and to the representations and consultations received on the planning application and the subsequent Inquiry.

The Minister originally called for the Public Inquiry as he considered that the proposal to redevelop the former holiday village by way of 26 new dwellings and 2 replacement dwellings constituted a substantial departure from Policy SP1 (Spatial Strategy) of the 2011 Island Plan. Nonetheless, Article 19 (3) of the Planning and Building (Jersey) Law 2002 states that the Minister may grant planning permission that is inconsistent with the Island Plan but shall not do so unless he is satisfied that there is sufficient justification for doing so.

In this instance, the Minister is satisfied that there is sufficient justification for allowing a substantial departure from the Island Plan.

The crux of the issue has been whether the proposed re-development is justified as a means by which to secure a substantive, positive contribution to the repair and restoration of the landscape of the Plemont headland.

Policy ERE 3 of the Island Plan makes permissible, as an exception, 'enabling development' which is something that would normally not be permitted but, may be permitted if it would provide a mechanism or funding to secure positive environmental benefits for the Island.

Moreover, although Policy NE7 of the Island Plan presumes against the redevelopment of commercial buildings (for anything other than their original purpose) it does make an exception where the redevelopment would give rise to demonstrable environmental gains and where it would make a positive contribution to the repair and restoration of the landscape.

On this point, the Minister is satisfied that the proposal represents a clear and significant reduction in the building mass and floorspace area compared to the existing complex and that, by splitting the development into 3 clusters, this will further serve to break up the perceived bulk of the existing structures. The new dwellings would certainly be visible on the skyline from various viewpoints but the Minister does not consider that this would result in a seriously detrimental impact upon the skyline, nor result in the loss of any strategic view or important vista.

The proposed new dwellings also share a high quality of design following a rural vernacular with significant openness punctuating the 3 clusters. Although not on the same footprint as the existing

structures, the 3 clusters would be 'pulled' away from the North coast cliff path, offering a greater visual buffer between the coast and the development. The Minister is satisfied that this approach to the development of the site is an appropriate response to the sensitivities of the site and its surroundings.

The Minister has fully considered the thorough and balanced report of the Inspector and accompanying submissions, including a comprehensive Environmental Impact Assessment. He has reached the conclusion that, notwithstanding the policy presumptions against the erection of new residential development outside of the Island's principal settlements, this proposal will result in the significant and substantial repair and restoration of landscape character. It will enable the wholesale clearance of the existing Plemont Holiday Village structures which are, presently, a blight on the Island's sensitive North coast. Accordingly, the Minister contends that the proposals represent a justifiable exception to Policy SP1 of the Island Plan, but also that they fall in with the exception permitted under Policy NE7 and ERE3.

Resource Implications:

Nil

Action required:

Notify Agent, Applicant and all other interested parties

Signature:

Deputy R C Duhamel

PLeg / AS Initials

Position:

Minister for Planning and Environment

Date Signed:

Date of Decision (If different from Date Signed):