

**WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 11th DECEMBER 2012**

Question

In relation to the following two St. Helier property developments abandoned or put on hold by the developers, will the Minister set out clearly the dates of all correspondence/communications between the Planning department and the developers, setting out the issues raised, resolved and reworked in each so that members can understand for themselves how and why these projects came to be abandoned or put on hold –

- (a) Le Masuriers Parkside North of Town Development;
- (b) Le Masuriers J1 Broad Street Development?

Answer

Answer to part (a) Le Masuriers Parkside North of Town Development

In answering this part of the question and to help members understand matters regarding the Le Masurier Bath Street development, I think it is important that I detail the history and actions of my Department relating to this site.

Land owned by Le Masurier at the Bath Street site has been in a state of decline for some time: the land and buildings are generally tired, underdeveloped and in need of regeneration.

The North of Town masterplan, approved by the States in June 2011, identified this site, together with the Odeon building, as a key intervention site with the potential to bring about considerable regeneration and change.

The wording within the masterplan was agreed with Le Masurier to ensure that the masterplan reflected the aspirations of both the landowner and the planning authority. The draft development brief (also known as Supplementary Planning Guidance or SPG) for the Bath Street site sets out the following key principles for its redevelopment:

The redevelopment of this site offers a significant opportunity to regenerate the area and repair the townscape. It provides an opportunity to create a predominantly residential development, which contributes to the Island's specific housing needs, within walking distance of schools and the central markets and retail core of the town centre.

There is also the potential to secure the provision of short-stay public car parking of benefit to local business and residents and replacing some of that lost to the provision of the Town Park, and/or securing a commensurate contribution to other sustainable transport infrastructure, as well as significant public realm enhancements, in accordance with the objectives provided by the North St Helier Masterplan.

The Planning and Environment Minister considers that there is an overriding environmental and community benefit for the regeneration of the area as outlined in the approved North St Helier Masterplan.

Following my appointment as Minister for Planning and Environment in November 2011, I set about progressing discussions with landowners to catalyse development activity to help deliver Island Plan and North of Town masterplan objectives.

I have been working with landowners to develop more specific planning guidance so as to better inform the submission of any subsequent planning applications for the redevelopment and regeneration of their land. I have already done this successfully with Jersey Gas and adopted and published a development brief for their Tunnell Street site.

In relation to the Le Masurier site, I have not received any specific feedback from the company as to why they have withdrawn their interest in developing their site, other than what has been reported through the media.

I have consistently sought to engage with them and the offer to do so still remains and I am pleased that they have now taken up the offer of a meeting in order that I might better understand their actions. I still wish to see a planning application for this site and will issue supplementary planning guidance in order to facilitate such, following my meeting with Le Masurier.

The following is a summary of key actions and dates relating to the Le Masurier Bath Street Site that my department has supplied.

Date	Action / Comment
Nov 2006	Le Masurier submit planning application (PP/2006/2444) to the Department of the Environment (DoE) for the "Refurbishment & regeneration of the former Odeon cinema to form retail unit. Construct retail unit adjacent to cinema on basement & ground floor & multi storey car park on first to fourth floor. Extensive hard landscaping and external works including enclosed service yard and plant compound."
Feb 2007	DoE requests that a model of the scheme and justification for the demolition of Listed buildings be provided
May 2007	Le Masurier submit revised plans (omitting Odeon building) and traffic and retail studies. Application re-advertised
May 2007	DoE acknowledge new information and request that a model of the scheme and justification for the demolition of Listed buildings be provided
Jun 2007	DoE request again that a model of the scheme and justification for the demolition of Listed buildings be provided
Jul 2007	Transport and Technical Services raise concerns regarding Traffic Study. Concerns are shared with Le Masurier.
Jul 2007 to Jul 2009	No additional information received by DoE from Le Masurier
Jul 2009	DoE developing the North of Town Masterplan. DoE query with Le Masurier the lack of response to traffic and Listed building concerns and suggest that the application is withdrawn with the offer of a significant fee refund.

Jul 2009 to Jul 2011	No additional information received by DoE from Le Masurier
Jul 2011	DoE write to Le Masurier advising that insufficient information has been received to determine the application and suggest again that the application is withdrawn
Sep 2011	DoE Chief Executive Officer (CEO) and Le Masurier Managing Director exchange correspondence. DoE CEO offers Le Masurier final opportunity to withdraw the application, or a decision will be made on the application as submitted.
13 Jan 2012	<p>Minister meets with key landowners in the North of Town area to encourage them to review the development potential of their land and buildings and to work with the Minister to bring about regeneration proposals in accord with the framework provided by the North of Town Masterplan. This meeting included Le Masurier and other key interests such as Jersey Property Holdings, the Housing Department, Jersey Gas, Comprop and the Modern Hotels Group.</p> <p>Further detailed meetings, involving extensive high level representation from the DoE, were held with Le Masurier to assist the progression of development on the Bath Street site, and the preparation of Supplementary Planning Guidance (brief) for any future scheme. These were attended by the Planning and Environment Minister, the Chief Executive Officer (DoE), the Development Control team leader, and a senior planning policy officer (either the Director or a Principal Policy Officer). From the Le Masurier side, meetings were attended by the Managing Director, Development Director, representatives from Sheppard Robson (Architects) and Gardiner & Theobald (Project Management).</p>
16 Mar 2012	Le Masurier meet Minister and DoE to present broad design concept and proposed mix of uses for Bath Street site
16 Mar 2012	DoE request Le Masurier architect to send copies of design concept presentation
10 Apr 2012	DoE email Le Masurier a summary of the points to be addressed in the design concept.
17 Apr 2012	DoE circulate notes and other outstanding actions from the earlier meeting
17 May 2012	Le Masurier respond stating that the summary did not reflect the viability issues identified in their initial proposal
May 2012	Le Masurier withdraw their planning application (PP/2006/2444) originally submitted in Nov 2006. Le Masurier refunded 75% of original planning fee (£31k).
18 May 2012	<p>Meeting between Le Masurier team, Minister and DoE team to discuss the planning process and procedures involved, including the development of Supplementary Planning Guidance (brief).</p> <p>Le Masurier undertook to produce an initial draft brief based on the structure of the recently approved Gas Works brief.</p>
25 May 2012	Le Masurier write to DoE and provide a hard copy of the draft brief, based on the approved Gas Work brief
06 Jun 2012	In addition to the assistance provided in the development of a draft brief, further

	advice was also given as to the form of an outline planning application. The DoE advised what information should be submitted and what level of detail and assurance could be sought at this stage. This was accepted positively by the consultants working for Le Masurier.
7 Jun 2012	DoE respond to draft brief with a list of preliminary comments
7 Jun 2012	Le Masurier raise concerns about the preliminary comments and ask DoE for a tracked changes copy on the brief
7 Jun 2012	DoE remind Le Masurier that all parties should focus on the wider issues relating to this development as already identified
8 Jun 2012	Follow up meeting with Le Masurier team, Minister and DoE team.
13 Jun 2012	DoE officers meet Le Masurier to discuss issues of scale and character emerging from the brief
22 Jun 2012	Minister and DoE officers meet with Le Masurier team
29 Jun 2012	Minister and DoE team meet to discuss brief and forward this to Le Masurier team for comment
6/7 Jul 2012	DoE agree final changes to the brief with Le Masurier prior to finalising consultation draft
12 Jul 2012	Ministerial decision (MD-PE-2012-0075) approving the draft brief and authorising consultation
13 Jul 2012	Le Masurier invited to comment on consultation questionnaire, prior to its release
16 Jul 2012	Draft brief issued for public consultation by DoE
17 Jul 2012	Le Masurier and DoE both issue positive news releases
27 Aug 2012	<p>Consultation ends</p> <p>The response to the public consultation was generally positive and there was clear support for the development of the site and regeneration of the area. However, representations received also raised a number of issues and concerns and a strong public view that any new development should respect the character and context of the area. Concerns were also raised over the potential conflict between vehicles and pedestrians accessing the site, the need to create a sense of community, and the need to ensure that the publicly accessible areas are properly administered</p>
7 Sep 2012	DoE provide Le Masurier with results of consultation
3-15 Oct 2012	<p>The DoE project team, comprising the Chief Executive Officer, the Planning Policy Director, the Principal Planning Policy Officer, the Historic Environment Team Leader and the Development Control Team Leader review the results of the consultation and any revisions required to the brief following the conclusion of the consultation period.</p> <p>The comments made in respect of townscape; vehicular and pedestrian conflict; sense of community; and the administration of public areas were considered by the DoE to be of sufficient weight and importance to warrant changes to the draft brief, as set out in the proposed response to public consultation schedule.</p> <p>There was also considered, by the DoE Project Team, to be a need to address</p>

	<p>other issues in the draft brief to clearly set out the policy considerations that the Minister would need to consider when dealing with any subsequent planning application: these were not new considerations but simply a reflection of adopted policy and objectives set out in the Island Plan and the North of Town Masterplan, including: protection of employment land, retail policy, flexible living space, public realm improvements, heritage assets and introducing more flexibility in parking provision</p>
3 Oct 2012	<p>The issues raised by the consultation, and the DoE initial review of the consultation response and other issues relating to the robustness of the draft brief, were briefly outlined in an email to Le Masurier</p>
4 Oct 2012	<p>Le Masurier raised concerns in writing at potential changes to the document. The letter did threaten that the company would withdraw from the process unless the brief remained largely unchanged from the original agreed draft (that being the one prior to consultation).</p> <p>It is an important point to make at this stage in the chronology that this guidance is the Minister's guidance for a site, and not the guidance of the developer. It would be wholly unreasonable to expect a developer to write and agree their own guidance for their own site, which then enabled them to submit a planning application which would then be assessed against guidance that they had produced or unduly manipulated.</p> <p>It would also be wholly unreasonable to undertake public consultation on a document, but then not to accept any changes as a result of that consultation. This would render such an exercise meaningless, and not one expected of the planning system in Jersey. It is also relevant to note that officers of DoE would be failing in their professional duties if they failed to advise the Minister of the relevant policy and other material considerations that he is required to take into account in considering any planning application for this site and which, by necessity, therefore, ought to be included in the development brief which is intended to guide the preparation of any such planning application.</p>
29 Oct 2012	<p>The DoE proposed changes to the draft brief were set out as recommendations to the Minister. The Planning and Environment Minister signed a Ministerial Decision (MD-PE-2012-0109), endorsing the proposed changes to the brief but making it clear that the brief would not be finalised or released until further engagement with Le Masurier had taken place.</p> <p>It was considered that the changes were not substantively adverse and that they did not raise any new policy issues that would undermine the viability of any development scheme on the site: if anything, the changes were considered to provide clearer guidance and offered more flexibility to any developer.</p>
31 Oct 2012	<p>A tracked changes version of the draft brief was sent to the Le Masurier managing director with an invitation to a meeting. The DoE and Minister were very cognisant of the need to talk Le Masurier through the changes, so that they were not misinterpreted and to provide Le Masurier with assurance that they were not substantive and/or unduly constraining to the regeneration of the site. This was thought a necessary precaution as, throughout the preparation of the draft brief earlier in the year, there had been instances where misinterpretation had occurred, although these were overcome due to the close and positive working dialogue that best described the team approach.</p> <p>Le Masurier declined to respond to the invitations to meet and a meeting, therefore, did not take place. The concern raised by Le Masurier in their letter of</p>

	4 th October demonstrated that Le Masurier had misinterpreted the proposed changes and the approach being proposed which made a face to face meeting imperative.
27 Nov 2012	Le Masurier advise DoE in writing, that it was withdrawing from further engagement and was not intending to progress with a project for the Bath Street site because of 'wholesale and unacceptable changes' to the development brief. It further advised that a public statement to this effect would also be made.
28 Nov 2012	Le Masurier issue a media release which coincided with the article published by the Chamber of Commerce in its Connect magazine.
28 Nov 2012	DoE issue Statement in response to Le Masurier Parkside Village media release
03 Dec 2012	Minister issues a Statement regarding development of Bath street site
05 Dec 2012	DoE and Le Masurier agree to a meeting

Claims by Le Masurier and answers from the Department of the Environment

Le Masurier have not formally informed the DoE of the specific concerns in relation to the most recent draft brief. The following points have been taken from the media releases and magazine article published in the Chamber of Commerce newsletter.

Issue 1 – the need to provide underground car parking for 110 commuter spaces

The brief does not require underground car parking to be provided and does not specify a specific level of car parking to be provided. The brief does require that consideration be given to delivering underground car parking to encourage the optimum development potential of the site. This is not an absolute requirement and it is a question asked of all developers in town.

Issue 2 – the need to purchase and demolish properties not in the control of Le Masurier in order to provide a new road.

The brief expected pedestrian links, not new roads, to be made from the site into the rest of St Helier: links south to Minden Place are mentioned. This is not new and is derived from the North of Town Masterplan. It is acknowledged that not all of the land between the Odeon and Minden Place is owned by Le Masurier and that achieving a new north-south pedestrian link may not be achievable. The brief, therefore, introduced flexibility to allow other links to be enhanced, such as Rue de Funchal, to deliver this objective. The brief does not expect properties outside of the control of Le Masurier to be purchased and demolished.

Issue 3 – the need to provide a £5.5M transport contribution

No discussions have taken place as to the likely transport solution or contributions from the development of the site. It is acknowledged by both parties that if car parking is not provided, then it may be appropriate to provide parking elsewhere, or provide a financial contribution to enhance public transport, walking and cycling.

Issue 4 – the prevention of the demolition of listed buildings on the site

The brief does not state this. The brief just outlines that if demolition of listed buildings is proposed, then this must be fully justified, in accord with the Planning law. The starting point for the consideration of development proposals which affect Listed buildings in the planning process is their retention: this reflects adopted States-approved policy which, in turn, reflects the Island's responsibilities under international Conventions. A planning decision, however, does allow all relevant issues to be balanced, and demolition of listed buildings can be justified where the public benefit of a development scheme is considered to sufficiently outweigh their retention. This has

to be acknowledged by Le Masurier who went through the same process in relation to J1 and ultimately received a decision to allow the demolition of Listed buildings.

Issue 5 – the control on size of commercial premises

The brief does expect the commercial premises on the ground floor to be “local” in nature and not a large scale supermarket or similar. A floorspace level is stated in the brief, reflecting adopted Island Plan policy, and this only corresponds to discussions with Le Masurier who have been discussing small shops and food and beverage outlets in order to enliven the public realm.

Issue 6 – proposals are to be withdrawn

There has not been a formal submission to the department and this proposal has not yet reached even an outline planning application stage. Various conceptual block plans and artist’s impressions have been shown during the meetings with Le Masurier, but no scheme has been submitted.

The Odeon Cinema Building

There has been much said by Le Masurier in terms of the Odeon site and how the planning service made u-turns in relation to this building.

The Odeon cinema has been a Listed building since 1992. During the North of Town Masterplan discussions, text was included within the masterplan which opened the issue as to its future.

Running alongside this has been a separate discussion on its heritage value. A decision was made by the previous Minister for Planning and Environment, to reconsider its heritage status. In deciding whether to List a building or place, the Minister must be satisfied that it has public importance by virtue of its special architectural and/or historic interest – not whether it should be knocked down. The previous Minister was advised by Jersey Heritage; the Listing Advisory Group; as well as expert advisors from English Heritage, that the building was worthy of Listing because of its special architectural and historic interest and he duly upheld its Listed status in January 2011.

The Listing of a building or place does not preclude change, it simply ensures that the Minister must have due regard to its special heritage interest when he weighs this against other benefits that development and/or redevelopment proposals might bring.

No application to demolish the Odeon was made by Le Masurier. It cannot therefore give such permission if none is asked for. The application submitted by Le Masurier in 2006 for the supermarket proposal, did include the Odeon, but was subsequently amended to remove the Odeon building from the development proposal. This historic building has now been sold by Le Masurier and is in an alternative, viable use which will serve to safeguard the essence of its heritage value.

Summary

I am aware that Le Masurier have expressed some dissatisfaction with the planning process and draft development brief. It is my conclusion that this has been based on a misunderstanding of the planning process and the role a development brief takes. A brief is there to guide and provide advice on issues which will arise during any formal planning application process. Very often a developer will seek to challenge elements of a brief during the planning application process.

Looking forward, I need to understand the needs and motivation of the developer and what decisions need to be made to allow a scheme to be developed. For that to happen dialogue needs to recommence and I am pleased that Le Masurier have agreed to meet with me to progress this matter further.

Answer to part (b) Le Masuriers J1 Broad Street Development

I am not aware that the J1 project has been put on hold or abandoned: indeed all public statements from Le Masurier recently have indicated that the company is seeking to focus its efforts on bringing this proposal to fruition.

J1 is the largest single-building proposal ever considered by the Department of the Environment, with a gross floorspace of 469,429 sq ft. The application was received on 14 June 2011, and permission was granted on 16 December 2011.

The permit was subject to 23 conditions and it is the responsibility of the applicant to discharge them.

Since the approval, my department has had on-going dialogue with the applicant, generally relating to the planning conditions, including meeting with the project team to;

- agree the scope of the information they envisaged submitting (9 February 2012)
- agreeing definitions for terminology and technical information (23 April 2012)
- providing the applicant with the briefs required for conditions Nos 17 and 18 (18 May 2012), working with the applicant to discharge the conditions which require their action "prior to the commencement of development".

18 of the 23 conditions fall into this "prior to commencement" category. My department has received information from the applicant in relation to 8 of these conditions (to 28 June 2012), and following liaison with our technical / statutory consultees has provided feedback to the applicant on all of their submissions.

Since 2 November there have been no outstanding actions with the Department. The applicant still has a significant amount of work to do in relation to planning conditions, and will also need to prepare and submit an application for Building Bye-Laws permission.