

**WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT
BY THE CONNÉTABLE OF ST. JOHN
ANSWER TO BE TABLED ON TUESDAY 4th JUNE 2013**

Question

Following his decision to approve the application by the Jersey Development Company (JDC) to construct a 56,000 sq ft building on the Esplanade car-park site would the Minister advise –

- (a) whether this approval is consistent with the Esplanade Quarter Masterplan approved by the States in 2008 (P.60/2008)?
- (b) whether this approval is compromised by the ongoing litigation between the JDC's predecessor the Waterfront Enterprise Board and Harcourt Developments?
- (c) if the Island Plan 2011 needs to be amended if elements of P.60/2008 are not now to be carried out, specifically the sunken road and approved scheme and, if so, should the Island Plan have been amended by the States before this approval was issued?
- (d) if the 31 conditions associated with the approved application reflect the Island Plan 2011 and the Esplanade Quarter Masterplan 2008 (P.60/2008)?

Answer

Before dealing with the specific points (a) to (d), may I initially point out that the proposed building in application P/2012/1141 is 80,000 sq ft (gross) / 67,000 sq ft (net), not 56,000 sq ft as referenced in the above Question.

(a) whether this approval is consistent with the Esplanade Quarter Masterplan approved by the States in 2008 (P.60/2008)?

My determination of P/2012/1141 includes an understanding that the application is for a single building and is not, in itself, delivering the Esplanade Quarter Masterplan – clearly the scope of the Masterplan is way beyond this individual building. I am content that as an individual building the application is consistent with the Masterplan, in that its footprint and scale are as the Masterplan envisaged for this part of the site. Further, at a broader level, I am also content that this building is compliant with the wider aspirations of the Masterplan as it supports the on-going delivery of its aspirations and the longer-term realisation of the original Masterplan objectives.

(b) whether this approval is compromised by the ongoing litigation between the JDC's predecessor the Waterfront Enterprise Board and Harcourt Developments?

I have no involvement with the litigation between Harcourt and SOJDC and therefore I am unable to comment. This question is therefore perhaps best directed to the parties involved in that litigation.

(c) *if the Island Plan 2011 needs to be amended if elements of P.60/2008 are not now to be carried out, specifically the sunken road and approved scheme and, if so, should the Island Plan have been amended by the States before this approval was issued?*

I am not aware that any elements of the wider Esplanade Quarter Masterplan are now not to be carried out. The planning system cannot make developments happen. It is permissive, in that it determines the applications as submitted to the Department by developers. The granting of planning permission for P/2012/1141 is perhaps a step towards making sure some of the Masterplan *does* get carried out. I cannot therefore see any need to alter the Island Plan.

(d) *if the 31 conditions associated with the approved application reflect the Island Plan 2011 and the Esplanade Quarter Masterplan 2008 (P.60/2008)?*

There are actually 34 planning conditions (for completeness, these are set out on the attached list).

Each condition includes a “reason” in italics, and you will note that each reason is referenced to a planning objective, as described by a policy within the Island Plan 2011. This form of referencing is standard and illustrates that the conditions are reasonably related to a planning objective.

In the main, the reasons will include reference to Policy BE2 of the Jersey Island Plan 2011, which is the policy concerned with the Delivery of the St Helier Waterfront, and which expressly references the 2008 Esplanade Quarter Masterplan. Therefore, the conditions do all reflect the Island Plan and the Masterplan.

Should any further information be required in relation to any element of the application and its determination, then may I please identify the resources on our website, being the application documentation, Department Report and the Ministerial Decision, available via the following links:

Application documentation

<https://www.mygov.je/Planning/Pages/PlanningApplicationDetail.aspx?s=1&r=P/2012/1141>

Department Report

[http://www.gov.je/SiteCollectionDocuments/Planning%20and%20building/M%20MM%202013-04-19%20\(A\).pdf](http://www.gov.je/SiteCollectionDocuments/Planning%20and%20building/M%20MM%202013-04-19%20(A).pdf)

Ministerial Decision

http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=f04004e7c573de49d297f2f078db8e7c_MDs

P/2012/1141

PLANNING CONDITIONS

(with reasons in italics)

1. The development hereby permitted shall not be commenced until details of the appointed Landscape Architect have been agreed in writing by the Minister for Planning and Environment and the appointed Landscape Architects shall have submitted to and have approved in writing by the Minister for Planning and Environment, a **scheme of landscaping** which shall provide details of the following;

- i) all existing trees, hedgerows and other plants, walls, fences and other features which it is proposed to retain on the site and on adjoining land within the same ownership;
- ii) the position of all new trees and/or shrubs, this must include the species of plant(s)/tree(s) to be planted, their size, number and spacing and the means to be used to support and protect them;
- iii) other landscape treatments to be carried out or features to be created, for example, any excavation works, surfacing treatments, or means of enclosure;
- iv) the measures to be taken to protect existing trees and shrubs; and,
- v) the arrangements to be made for the maintenance of the landscaped areas.

For the avoidance of doubt the scheme of landscaping shall include for increased planting within the temporary car park on the south side of La Route de la Liberation and include details of all hard landscape to include the segregation of cyclists and pedestrians in marked areas; all street furniture; roads and footpaths; areas of hardstanding; areas of public open space; flood protection measures; and, car park ramps.

To ensure that before development proceeds provision is made for a landscaping regime that will enhance the appearance of the development and help to assimilate it into the landscape and to deliver a high quality development in accordance with Policies SP7, BE2 and GD7 of the Jersey Island Plan 2013.

2. All planting and other operations comprised in the **landscape** scheme hereby approved shall be carried out and completed prior to first occupation of any element of the development.

To ensure the benefits of the landscape scheme are not delayed, in the interests of the amenities of the area and to deliver a high quality development in accordance with Policies SP7, BE2 and GD7 of the Jersey Island Plan 2013.

3. Prior to the commencement of development, a report setting out the arrangements for the **management of the landscaped areas** shall be submitted to and approved by the Minister for Planning and Environment, and that that any trees or plant(s) planted in accordance with the approved landscape scheme, which within a period of five years from the planting taking place; die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season, unless the Minister for Planning and Environment gives written consent for a variation of the scheme.

To mitigate against the potential failure of trees and plants, and the extent to which that might threaten the success of the approved landscape scheme and to deliver a high quality development in accordance with Policies SP7, BE2 and GD7 of the Jersey Island Plan 2013.

4. Prior to the commencement of development, a report setting out the arrangements for maintaining free and unrestricted **public access** to the landscaped areas shall be submitted to and approved in writing by the Minister for Planning and Environment, to be implemented in full prior to first occupation, and maintained in perpetuity thereafter.

To deliver a high quality development in accordance with Policies SP, BE2 and GD7 of the Jersey Island Plan 2013.

5. No development shall take place until a scheme of foul drainage and surface water **drainage** (to include flow rates, and to cover the surface drainage of the relocated surface car park) has been submitted to and approved by the Minister for Planning and Environment. The approved scheme shall be completed before the development is first brought into use.

To ensure satisfactory drainage arrangements in accordance with Policy GD2 and BE2 of the Jersey Island Plan 2011.

6. Notwithstanding the information on the approved plans, prior to the commencement of development, full details including manufacturers specification and the proposed location of **petrol interceptors** for the temporary car park shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented in full prior to first occupation of any element of the application site, and maintained in perpetuity thereafter.

To ensure satisfactory drainage arrangements in accordance with Policy GD2 of the Jersey Island Plan 2011 and in the interests of preventing contamination, in accordance with Policy GD6, BE2 and NR1 of the Jersey Island Plan 2011.

7. Notwithstanding the information on the approved plans, prior to the commencement of development, full details of **permeable paving / SUDS** to be applied to all hard surfaced areas shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented in full prior to first occupation of any element of the application site, and maintained in perpetuity thereafter.

To ensure satisfactory drainage arrangements in accordance with Policy GD2, GD2 and LWM2 of the Jersey Island Plan 2011

8. Prior to the development commencing a full BREEAM pre-assessment demonstrating that '**BREEAM Excellent**' can be met by the development must be submitted to and approved in writing by the Minister for Planning and Environment. The pre-assessment must be drawn up by an appropriately qualified assessor. The development must then be carried out in accordance with the details specified in the approved assessment. Within six months of the first occupation of the building a post construction review shall be submitted - again drawn up by an appropriately qualified assessor - demonstrating that 'BREEAM Excellent' has been achieved.

In the interests of sustainable development and energy efficiency, in accordance with Policy SP2 and BE2 of the Jersey Island Plan 2011. _____

9. Prior to the occupation of the development hereby permitted, details shall be submitted to and approved by the Minister for Planning and Environment, implemented and thereafter maintained, of a Green **Travel Plan** covering the management of travel movements to and from the site. The Methodology for the Green Travel Plan shall cover a period of at least 10-years and shall first have been agreed with the Minister for Planning and Environment, and shall include provision for charging points for electric cars and electric cycles, and the provision of electric vehicles for the operational use of tenants. No office accommodation shall be occupied until a Travel Plan coordinator has been appointed and their details forwarded to the Minister for Planning and Environment.

In the interests of promoting sustainable patterns of development, and to accord with Policies TT9, BE2 and SP6 of the Jersey Island Plan 2011.

10. Notwithstanding the information on the approved plans, prior to the commencement of development, full details including manufacturers specification of the proposed **air source heat pumps** shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented in full prior to first occupation of any element of the application site, and maintained in perpetuity thereafter.

To ensure satisfactory drainage arrangements in accordance with Policy GD2 of the Jersey Island Plan 2011 and in the interests of delivering renewable energy in accordance with Policy NR7 and BE2 of the Jersey Island Plan 2011.

11. Prior to the commencement of the development hereby permitted, details shall be submitted to and approved by the Minister for Planning and Environment, implemented and thereafter maintained, of a **Skills and Training Plan**, to support the development and training needs of Island residents. The Methodology for the Skills and Training Plan shall first have been agreed with the Minister for Planning and Environment.

In the interests of promoting sustainable patterns of development and supporting economic growth and diversification, and to accord with Policy GD1, BE2 and SP5 of the Jersey Island Plan 2011.

12. A **Percentage for Art** contribution must be delivered in accordance with the Percentage for Art Statement submitted to, and approved by, the Minister for Planning and Environment. The approved work of art must be installed prior to the first use/occupation of any part of the development hereby approved.

To accord with the provisions of Policy GD8 and BE2 of the Jersey Island Plan 2011.

13. Prior to the commencement of the development hereby permitted, full details of the provisions and arrangements to be made for the storage, sorting, recycling, collection and disposal of operational office **refuse** must be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented prior to first occupation and maintained in perpetuity.

To ensure that waste and refuse is stored and disposed of without harming the amenities of the occupiers of neighbouring properties or the surrounding area, in accordance with Policy GD1 and BE2 of the Island Plan, 2011.

14. Notwithstanding the information on the approved plans, prior to the commencement of development, full details of the relocated **public recycling** facilities currently at the Esplanade car park shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter made available in full prior to first occupation of any element of the application site, and maintained in perpetuity thereafter.

For the avoidance of doubt and in the interests of providing adequate recycling facilities in accordance with Policy WM5 and BE2 of the Jersey Island Plan 2011.

15. Notwithstanding the information on the approved plans, prior to the commencement of development, full details of the proposed **off-street servicing**, including designated parking bays, shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter made available in full prior to first occupation of any element of the application site, and maintained in perpetuity thereafter.

In the interests of providing adequate service infrastructure, in accordance with Policy GD2 and BE2 of the Jersey Island Plan 2011.

16. Notwithstanding the indications on the approved plans, prior to the commencement of the development hereby permitted, full details of all **external materials** to be used to construct the development shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented prior to first occupation and maintained in perpetuity.

To ensure a high quality of design and in accordance with Policies SP7, BE2 and GD7 of the Jersey Island Plan 2011.

17. Prior to commencement of the development hereby permitted, details shall be submitted to and approved by the Minister for Planning and Environment, implemented and thereafter maintained, setting out the arrangements for **Waste Management** in relation to the proposed excavation. Following completion of the excavation, and prior to commencement of construction, a Waste Management Completion Report shall be submitted to the Minister for Planning and Environment.

In the interests of securing waste minimisation, and to accord with Policy WM1 and BE2 of the Jersey Island Plan 2011.

18. Prior to the commencement of development a **Construction Environmental Management Plan** shall be submitted to and agreed in writing by the Minister for Planning and Environment which shall thereafter be implemented in full until the completion of the development. The Plan shall include an implementation programme of mitigation measures to minimise any adverse effects of the proposal, and shall include:

A. A demonstration of best practice in relation to noise and vibration control; and control of dust and emissions;

- B. Details of a publicised complaints procedure, including office hours and out-of-hours contact numbers;
- C. Specified hours of working (to include that work resulting in noise being heard outside the application boundary occurs only between 8am and 6pm Monday to Friday, and 8am to 1pm on Saturdays, with no noisy working outside these times, and no noisy work on Bank or Public Holidays);
- D. Details of any proposed crushing / sorting of waste material on site;
- E. Details of the proposed management of traffic and pedestrians (to include for vehicle wheel washing);
- F. Measures taken to detect and manage any asbestos;
- G. Proposed piling methods;
- H. Any arrangements for dewatering.

In the interests of protecting the amenities of the area to accord with Policy GD1 and BE2 of the Jersey Island Plan 2011 and in the interests of preventing contamination, in accordance with Policy GD6, BE2 and NR1 of the Jersey Island Plan 2011.

19. Unless otherwise agreed in writing by the Minister for Planning and Environment, prior to first occupation of the development hereby permitted the **visibility lines** must be provided for 50m at a point 2.4m back from the entrance to the basement car park. Everything within the visibility sight lines, including gates, walls, railings and plant growth is to be permanently restricted in height to 900mm above road level. Any **vehicle barrier** or control point must be a minimum of 8m from the roadside kerb edge and prior to the commencement of development details of any traffic light control system should be submitted to and agreed in writing by the Minister for Planning and Environment to be implemented prior to first occupation and maintained in perpetuity thereafter.

In the interests of delivering suitable vehicle infrastructure, in accordance with Policy GD1 and BE2 of the Jersey Island Plan 2011.

20. Prior to the commencement of development a scheme of **external lighting** shall be submitted to and approved in writing by the Minister for Planning and Environment, to be implemented in full prior to first occupation and retained in perpetuity thereafter. Unless otherwise agreed in writing by the Minister for Planning and Environment all external lighting must be erected and directed in accordance with the Institution of Lighting Engineers Guidance Notes for the Reduction of Light Pollution 1994 (revised).

In the interests of the amenities of the area and in accordance with the requirements of Policy GD1 and BE2 of the Jersey Island Plan 2011.

21. Prior to the commencement of development details of the **CCTV** installations shall be submitted to and approved in writing by the Minister for Planning and Environment, to be implemented in full prior to first occupation and retained in perpetuity thereafter.

In the interests of the amenities of the area and in accordance with the requirements of Policy GD1 and BE2 of the Jersey Island Plan 2011.

22. Prior to the occupation of the development, a **Flood Risk Assessment** as applicable to the application site shall be submitted to and approved by the Minister for Planning and Environment, with any recommendations implemented prior to first occupation and thereafter maintained in perpetuity. The Methodology for the Flood Risk Assessment shall first have been agreed with the Minister for Planning and Environment.

In the interests of ensuring adequate service infrastructure in accordance with the requirements of Policy GD1 and BE2 of the Jersey Island Plan 2011

23. Prior to the occupation of the development, a scheme for **Air Quality Monitoring** during the construction phase shall be submitted to and approved by the Minister for Planning and Environment, to be thereafter maintained until first occupation. The Methodology for the Air Quality Monitoring shall first have been agreed with the Minister for Planning and Environment, and shall include provision for remedial actions in the event that air quality drops below reasonable levels to be agreed in advance with the Minister for Planning and Environment.

In the interests of ensuring adequate air quality in accordance with Policy NR3 and BE2 of the Jersey Island Plan 2011.

24. Prior to commencement of the development hereby permitted, a programme of recording and analysis of the elements of the **sea wall** to be removed, to the terms of a brief to be supplied by the Department, shall be submitted to and approved by the Minister for Planning and Environment, to be thereafter implemented.

In the interests of the historic environment in accordance with Policy HE1 and BE2 of the Jersey Island Plan 2011.

25. Prior to the commencement of any work on site which shall affect the **sea wall**, a Method Statement shall be submitted to and approved in writing by the Minister for Planning and Environment itemising the procedures to be followed for works to the sea wall, including the elements of the wall which are to be relocated. All the specified works are to be undertaken prior to further occupation of any element of the development and are to be maintained in perpetuity thereafter.

In the interests of the historic environment in accordance with Policy HE1 and BE2 of the Jersey Island Plan 2011.

26. Unless otherwise agreed in writing by the Minister for Planning and Environment, the **replacement car parking** on the south side of La Route de la Liberation shall be surfaced, demarcated, drained, accessible and in all other regards operational, prior to the loss of any car parking spaces within the existing Esplanade car park. The replacement car parking is approved on temporary basis only, to ensure a balance of 525 public spaces is maintained across the two sites. The temporary car parking shall cease to operate when 525 spaces have been re-introduced to the Esplanade site. At all times the number of operational spaces across the two sites shall comprise 525 public car spaces and 100 public motorcycle spaces (excluding the basement provision in the subject building). The replacement car parking shall be made available for general public users on the same terms (in relation to charging mechanisms, length of stay and operating hours) as the existing Esplanade car park.

In the interests of securing adequate car parking provision, in accordance with Policy TT10 and BE2 of the Jersey Island Plan 2011.

27. Prior to the commencement of development drawings shall be submitted to and approved in writing by the Minister for Planning and Environment to show the location of public parking facilities for 20 additional **bicycles**, with that provision being implemented prior to first occupation and maintained in perpetuity thereafter.

In the interests of securing adequate bicycle parking provision, in accordance with Policy TT4 and BE2 of the Jersey Island Plan 2011.

28. Prior to the commencement of development a technical note shall be provided to and approved in writing by the Minister for Planning and Environment to model the **capacity of the junction** of Castle Street and the Esplanade. Until such a time as that information has been provided, the details of the junction (including the potential for a slip lane between Castle Street and the Esplanade and the consequential alterations to the landscape scheme), are reserved for future consideration by the Minister for Planning and Environment. The Methodology for the technical note shall first have been agreed with the Minister for Planning and Environment.

In the interests of securing adequate access and service infrastructure in accordance with Policy GD1 and BE2 of the Jersey Island Plan 2011.

29. Prior to the commencement of development a detailed drawing (at no less than 1:20 scale) to show the **entrance to the temporary car park** at the junction of La Rue de L'Etau, specifically the geometry necessary to facilitate exit in both an easterly and westerly direction, shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented prior to first use and maintained in perpetuity.

In the interests of securing adequate access and service infrastructure in accordance with Policy GD1 and BE2 of the Jersey Island Plan 2011.

30. Prior to the commencement of development the **levels of potential contaminants** in the ground shall be investigated and any risks to human health or the wider environment assessed and mitigated, to the satisfaction of and in accordance with the requirements of Supplementary Planning Guidance Planning Advice Note 2 – Development of Potentially Contaminated Land. This will include: Phase 2 work to provide up-to-date site investigations and shall include ground conditions, soil, gas and groundwater data; and Phase 3 Remediation and / or Risk Management, with Completion Report and Certificate to be issued prior to first occupation of any element. Where required by the Minister, the completion report shall also include a plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Minister. For the avoidance of doubt the scope of all work must be agreed in writing in advance with the Minister for Planning and Environment and shall also include the site of the temporary car park.

To ensure the development does not have an unreasonable impact on public health or the wider environment and to accord with Policy GD1, BE2, and GD6 of the Jersey Island Plan 2011.

31. Notwithstanding the conclusions reached within site investigation work, should any **contamination** be found during the course of development hereby approved, work shall cease and the Minister for Planning and Environment contacted immediately.

To ensure the development does not have an unreasonable impact on public health or the wider environment and to accord with Policy GD1, BE2, and GD6 of the Jersey Island Plan 2011.

32. Prior to the commencement of development a **Hydro-Geological Model** shall be prepared for the site to fully understand the implications of the development on groundwater conditions. No development shall take place until details of this and any mitigation measures have been submitted to and approved by the Minister as part of a detailed application, with the mitigation measures to be implemented prior to first occupation and maintained in perpetuity thereafter. For the avoidance of doubt the scope of all work must be agreed in writing in advance with the Minister for Planning and Environment

To ensure any long term impact of the scheme on groundwater conditions is clearly understood and any mitigation measures identified and to accord with Policy GD1, BE2, NR1 and GD6 of the Jersey Island Plan 2011.

33. On the conclusion of all detailed site investigations, the groundwater quality data and a groundwater quality change model shall be submitted to the Minister for Planning and Environment, and prior to the commencement of any development a programme of **groundwater analysis** and sampling shall be submitted to and agreed in writing by the Minister for Planning and Environment for whole construction phase. For the avoidance of doubt the applicant shall fund and allow reasonable independent audit water sampling on site by the Minister for Planning and Environment whenever the Minister deems this to be appropriate.

To ensure any long term impact of the scheme on groundwater conditions is clearly understood and any mitigation measures identified and to accord with Policy GD1, BE2, NR1 and GD6 of the Jersey Island Plan 2011.

34. Prior to the commencement of development a **Phasing Plan** shall be submitted to and agreed in writing by the Minister for Planning and Environment. That Phasing Plan shall include details of the timetable for the delivery of the wider Esplanade Quarter works beyond Phase 1 (the Jersey International Finance Centre) to include the sinking of La Route de la Liberation and the balance of the works in the approved Masterplan for the Esplanade Quarter (as Amended).

To ensure compliance with Policy BE2 of the Jersey Island Plan 2011.