

A BAD MINISTERIAL DECISION ON PLÉMONT

The Council cannot understand how the Minister for the Environment can justify building 28, generally unaffordable houses in the Green Zone, at least 15 of them in Fields 44 and 47, undeveloped farmland which is protected by its own policy. The policy to safeguard farmland, though raised as a reason for objection by the Council, was not considered at the Public Inquiry.

Above all, it cannot be reasonable to use the rather obscure policy for ‘Enabling Development’, in Jersey intended for use within the agriculture industry, to over-ride the law and policies intended to protect this area.

As far as I can discover from their application, Plémont Estates did not apply for enabling development. Furthermore, if it was to become the deciding factor in the Minister’s decision-making, it should have been identified as such and discussed fully during the Public Inquiry. As I recall, it was not even mentioned.

My concern about the legality of the Minister’s decision can be illustrated by taking various quotes from the Inspector’s report and then making comments on them:

1. “I conclude that the outcome, housing at Plémont, conflicts with the Island Plan Spatial Strategy and therefore requires cogent, exceptional justification. On a finely balanced assessment I consider that the proposals taken as a whole do accord with Policy NE 7 Green Zone provided that the 28 houses (well designed and laid out in themselves) are treated as enabling development to bring about removal of the existing eyesore and create more and better located and landscaped open land.” (Paragraph 219).

Comment: The Island Plan Policy ERE 3 for ‘Enabling Development’ is nothing to do with either tourism or the construction industry and property speculation. It is intended for use in agriculture to enable a farmer to improve his ‘facilities’. When did ‘facilities’ become a large-scale estate of expensive houses?

2. “However, overwhelmingly the harm to amenity lies not in these buildings’ state but in their presence.” (Paragraph 160).

Comment: If is the presence of the holiday- camp buildings is the problem how is the amenity of this area improved by replacing them with 13 houses in the same place with the remainder in undeveloped fields nearby?

3. “New housing is inherently inappropriate at Plémont, but this does not mean that the application must necessarily conflict with Green Zone Policy, or could not be justified even though non-compliant with the policy requiring large-scale development should not take place in remote areas and away from established built up areas. (Policy SP 1). This is the crux of the matter” (Paragraph 174).

Comment: New, large-scale building is in major contravention of the Green Zone policy which states “there is a general presumption against any new development for whatever purpose”. How can the unconnected policy of ‘enabling development’ overcome this presumption?

4. The site is: “within what in most regards is some of the most beautiful and sensitive coastal landscape on the Island” (Paragraph 176).

Comment: Is it reasonable to believe that this landscape and the natural environment will be improved by building a wide-spread housing estate in it?

5. “Some 15 of the houses would be on greenfield land; there is no identified need for these houses at this location; and again housing here is inherently inappropriate.”(Paragraph 166).

Comment: No mention here of Policy ERE1 intended to safeguard farmland. This policy is a material consideration the Minister is required by law to take into account. He did not and therefore ‘due planning process’ has not been followed.

6. “The retained historic field pattern is a part of the heritage, cultural value of this part of the Island” (Paragraph 191).

Comment: All members of the States of Jersey have a legal and a moral responsibility to safeguard cultural heritage for the enjoyment of future generations.

7. “Also, that when the application is taken as a whole, its overall balance would meet the aims of the 2002 Law Article 2.”(Paragraph 219).

Comment: The purposes of the planning law is to conserve, protect and improve the Island’s natural beauty, natural resources and general amenities, its character, and its physical and natural environments. It is the intention of the law to protect places that have a special importance or value to the Island and to ensure that the coast is kept in

its natural state. How does building a large scale housing estate in this sensitive area achieve any of these aims?

8. “However, this particular housing, as enabling development to clear the site and restore a significant area of sensitive land, close to the escarpment, to its natural state, would in my view further the Law’s purposes and intentions.” (Paragraph 218). And “Read in context the (ERE3) policy is plainly aimed mainly at agricultural businesses, but not necessarily exclusively so and certainly the principle of enabling development is well established as a planning tool.” (Paragraph 178).

Comment: Investigation reveals that according to English Heritage “Enabling development is development that secures the future of a significant place but contrary to established planning policy.” Why is the Inspector recommending its use in Jersey for completely the opposite reason? His recommendation will result in the permanent loss of a significant place, in clear contravention of the purposes of the Planning Law and at least four major policies of the Island Plan. In any case, it seems that none of the mandatory requirements specified in Policy ERE3 have been addressed and satisfied. In fact, the best form of enabling development would be for the States to purchase the site, let the National Trust for Jersey use the money it already has for the demolition of the derelict buildings. The whole site would then be preserved in its natural state for the enjoyment of future generations. After all, that is the real purpose of ‘enabling development’.

It is clear that the Minister for the Environment has made a thoroughly bad decision which is in contravention of both the planning law and policies of the Island Plan. In creating a dangerous legal precedent this decision deserves to be challenged. It cannot be allowed to stand.