

PLANNING AND BUILDING (JERSEY) LAW 2002 (AS AMENDED)

Appeal under Article 108 (2) (b) against a refusal to grant planning permission

Report to the Minister for the Environment

By Sue Bell MSc., BSc, FCIEEM, CEcol, CWEM,
An Inspector appointed under Article 107

Appellant: High Gorse Limited, Represented by Mr Nigel Weston (Director)

Planning Permission Reference Number: PP/2015/1596

Decision notice date: 17/03/2016

Location: High Gorse, part of Field No. 1534, Tower Road, St. Helier

Description of Development: Outline Planning: Construct 1 No. five bedroom dwelling and guest accommodation. Fixed matters: Layout, Scale, Appearance, Means of Access. Reserved matters: Landscaping

Appeal Procedure and Date: Hearing 8th June, 2016

Site Visit procedure and Date: Accompanied, 6th June, 2016 & Unaccompanied, 8th June, 2016

Date of Report: 5th July, 2016

Introduction

1. This is an appeal by High Gorse Limited, (represented by Director, Mr Nigel Weston), against a refusal to grant outline planning permission for the construction of a five bedroom dwelling and guest accommodation in Field No. 1534 on Tower Road, St. Helier (PP/2015/1596). The Fixed Matters relate to the Layout, Scale, Appearance, and Means of Access. The Reserved Matters relate to Landscaping.
2. There is an extant permission for the site (P/2011/0023), which was approved on 12 May 2011, and renewed on 4th November 2014 (RC/2014/1539). This permission is capable of being implemented, and acts as a fall-back position, which is a material consideration in this case.
3. Permission for application PP/2015/1596 was initially refused by the Department of the Environment under delegated powers on 20/01/2016. The appellant requested a review of this decision by the Planning Applications Committee. They maintained the decision to refuse the application on 17/03/2016. The application was refused on two grounds:
 - The proposed development by virtue of its increased height from two to three storeys and increased length from 47 m to 53 m would have an unreasonable impact on the amenities of the neighbouring properties to the immediate east and west contrary to Policies GD1 & GD7 of the approved Island Plan, 2011: Revised (2014).

- The increased scale and massing of the proposed development would have an unreasonable impact on the character of the surrounding area, countryside and skyline contrary to Policies GD1, GD5 & GD7 of the approved Island Plan, 2011: Revised (2014).
4. A summary of the cases presented by the appellant and the Department of the Environment are presented below, together with my conclusions. Further details are available in the statements and other documents submitted by each party, which are available through the Planning Applications Register website.

The appeal site and surroundings

5. The application site comprises the northern part of Field 1534, located to the south of Tower Road, St Helier. Tower Road is a Primary Route Network. In the vicinity of the application site there are dwellings of mixed architectural styles interspersed with fields. The application site is bordered by Richelieu Lodge to the east and by Claremont House to the west.
6. The northern part of Field 1534, which forms the application site, lies within, but close to the border of the Built Up Area and the Green Backdrop Zone for planning purposes. However, the larger, southern part of Field 1534 and the property and land lying to the east of the application site lie within the Green Zone.
7. The application site comprises a narrow strip of undeveloped land approximately 8 m wide and 90 m long, which slopes to the west. The southern end of the site is higher than the northern end. It is bordered to the east and west by low granite walls and hedges.

The proposal and how it differs from the extant planning permission

8. The appealed application is for construction of a 5 bedroom detached dwelling. This includes a “main” residence, comprising a basement, ground and first floors, and a family room forming a partial second floor, and separate guest accommodation, comprising a one-bedroom “gate house” building close to the entrance of the site. This gate house will be raised to allow vehicles to enter underneath it at ground level.
9. The extant planning permission allows for the construction of a 4 bedroom dwelling and garage with guest accommodation above, with a roof terrace. The main differences between the appealed and consented schemes are:
 - Inclusion of separate guest accommodation (gate house) at the entrance of the site;
 - Addition of a basement to the main building;
 - An increase in the length of the main building from 47 m to 53 m;
 - Enclosure of part of the second floor terrace to create a room.

Case for the appellant

10. The appellant states that the proposed scheme represents relatively minor alterations to the design that was previously approved. These changes better suit the appellants’ family circumstances, and allow more natural light into the scheme. The appellant believes that if these had been presented as “extensions”

to the completed extant scheme, then it is likely that they would have been approved.

11. Impact of the proposed development on the amenity of neighbouring properties to the immediate east and west of High Gorse resulting from the increase in height and length of the proposed building compared to the consented scheme: the appellant states that the increased impact on amenity of the neighbouring properties arising from the refused scheme compared to the approved scheme is marginal. He comments that the property to the east, Richelieu Lodge, is a considerable distance away from, and is set at an oblique angle to the application site. He maintains that such developments within the Built Up Area would not normally be deemed to affect the amenity of this property in any way. The appellant believes that the main living areas of Richelieu Lodge are on the first and second floors. As Richelieu Lodge is set higher up the hillside, the appellant maintains that residents will be able to look over the top of the first floor of the proposed development and that the small additional development at second floor level will have limited (if any) impact on the amenity of Richelieu Lodge. The appellant notes that the extent of the enclosure at roof terrace level is constrained to the central section of the plan, and is discreet in design and impact.
12. The appellant suggests that any residual concerns relating to windows on the east side of the proposed scheme could be addressed by them being fixed closed or through use of obscured glass. Similar conditions could be placed on the west-facing windows of the gate house. The appellant notes that there were no objections from the occupiers of the property to the west of the application site.
13. The impact of the scale and mass of the proposed building on the character of the surrounding area, countryside and skyline: the appellant asserts that the increased impact of the proposed scheme over the consented scheme is extremely marginal. They note that Richelieu Lodge is a four-storey home, and state that this sets the precedent for permissible height and impact on the skyline in the area. They believe that the application is consistent with the objective of using land in the Built Up Area in the most efficient manner possible.

Case for the Department of the Environment

14. The Department states that the relevant policy considerations are GD1, GD5, GD7 and BE3, which together seek to achieve a high quality of design which respects its context, longer views and the amenities of other properties. The Department considers the differences between the proposed and consented schemes to be quite significant, with the second floor increasing the apparent scale of the original design and the impacts on neighbours and the landscape.
15. The Department states that whilst there is a presumption in favour of development in the Built Up Area, this is not to the detriment of amenity considerations for surrounding residents, or the visual impacts of increased scale and massing. They maintain that this is a visually prominent site. In their view the increase to the scale and massing of the development will be visually detrimental to the surrounding area, especially as the site is close to the Green Zone and will impact negatively on the privacy of the immediate neighbouring properties to the east and west of the site.
16. The appellants' suggestion, that if the differences between the consented and appealed schemes had been presented as "extensions" then they would have been

permitted, is not supported by the Department. The Department refers to the planning history for the site, noting that the previous scheme was only approved after it was amended from a 3-storey to a 2-storey dwelling.

Planning Applications Committee

17. A copy of the Minute of the Planning Applications Committee meeting held on 17th March 2016 was supplied by the Department. This considered similar points to those raised in the Department's case. The Committee refused planning permission, citing the same reasons as those of the Department.

Representations made by other interested persons

18. Several letters of objection were received from surrounding residents during consideration of the application. These raised concerns about the height and scale of the development, stating that it was out of keeping with the surrounding area. Concerns relating to traffic/road safety, and effects on the skyline were also expressed. Residents of Richelieu Lodge raised concerns about the effects on their privacy.

Inspector's assessment and conclusions

Impact of the proposed development on the amenity of the neighbouring properties to the immediate east and west of High Gorse resulting from the increase in height and length of the proposed building compared to the consented scheme

19. The test for effects on amenity of neighbouring properties is provided by Policy GD 1 part 3 (a), which requires that proposed developments should “*not unreasonably affect the level of privacy to buildings and land that owners and occupiers might expect to enjoy*”. Judgement is required as to what is “unreasonable”.
20. The proposed scheme includes a family room at second floor level. The application site is on a westward facing slope. The gradient is fairly steep, meaning that the ground floor of the proposed development will be below the ground floor of Richelieu Lodge to the east, but above that of Claremont House to the west. In the absence of height markers on site it is difficult to be precise, but in my view the proposed room on the second floor will permit overlooking of Richelieu Lodge, and views into rooms, even allowing for the fact that the room will be in the centre of the building, at an oblique angle and in the order of 40 m from Richelieu Lodge. I do not consider that the use of obscured glass, as suggested by the appellant, is appropriate in this instance, as I consider that this would add to the apparent bulk of the building. I also consider that there will be overlooking from the gate house.
21. I acknowledge that the fall-back position, which includes a roof terrace, will also allow overlooking of the adjoining properties. However, in my view a room allows for more frequent and extended use than access onto a roof.
22. On balance, I conclude that the room on the third floor, combined with the guest accommodation will have an unreasonable effect on the level of privacy to building and lands, particularly to Richelieu Lodge to the east.

Impact of the scale and mass of the proposed building on the character of the surrounding area, countryside and skyline.

23. The appellant has provided photomontages showing the proposed property from the coast. The Department has also provided photographs of the site and elevation drawings, showing the differences between the consented and proposed schemes. During my site visits I viewed the site from a number of perspectives, both along Tower Road and from the Mont Pelle Estate.
24. Policy GD 5 sets a presumption against development that will have a “*seriously detrimental impact*”, on the skyline, views and vistas, whilst Policy BE 3, Green Backdrop Zone states that development will only be permitted where “*the landscape remains the dominant element in the scene and where the proposed development is not visually prominent or obtrusive in the landscape setting*”.
25. Currently there are views westwards from Tower Road across Fields 1538 - 1540 towards St Aubin’s Bay at the coast. Whilst the site lies below the crown of the hill, in my opinion the height, position and orientation of the building in relation to the existing properties will result in the upper storeys extending into this view. I consider that Richelieu Lodge already has some impact upon the view from Tower Road, but this should not act as justification for further encroachment upon it.
26. The proposed development is a modern design, with a flat roof and an emphasis upon linear lines and horizontal planes dictated by the size and shape of the site. Its modern style, materials and the colour of the projected finishes are of a different character to the neighbouring properties, which I believe will make it more noticeable within the landscape.
27. The projected height of the room at second floor level is 2.6 m tall, which is 1.5 m taller than the balustrading on the roof terrace of the consented scheme. I consider that the creation of an enclosed space will be visually more intrusive than the balustrading of a roof terrace.
28. The separation of the guest accommodation into a separate unit located at the entrance to the site also, in my opinion, adds to the overall bulk and mass of the development and would be more intrusive than the fall-back position.
29. I conclude that the inclusion of a permanent room at second floor level and creation of a separate raised building to provide guest accommodation will result in a development that would appear more bulky in the landscape than the fall-back position, and which is not consistent with policies BE 3, GD5 and GD 7 of the approved Island Plan, 2011: Revised (2014).

Other points

30. I note the appellants’ belief that the adjoining property, Claremont House, may be developed in the future. This is not a material consideration when assessing whether the current proposal meets the policies within the approved Island Plan (2011) (Revised 2014).
31. I also note the appellants’ suggestion that if the proposals were presented as extensions to the approved scheme then they would probably be consented. My assessment is based upon the scheme before me.

Conclusions

32. For the reasons set out above, I conclude, on balance, that the proposed development would have an unreasonable impact on the amenities of neighbouring properties, and the scale and massing would have an unreasonable impact on the character of the surrounding area and skyline.

Recommendations

33. For the reasons outlined above, I recommend that the appeal should be dismissed

Sue Bell
Inspector