

STATES OF JERSEY

PLANNING AND BUILDING (JERSEY) LAW 2002 (as amended)

APPEAL OF A DECISION UNDER ARTICLE 108

REPORT TO THE MINISTER FOR PLANNING AND ENVIRONMENT

by Mr Philip Staddon BSc, Dip, MBA, MRTPI

an Inspector appointed under Article 107

APPEAL BY: Mr and Mrs Rault (third party Appellants)

AGAINST: Decision of the Department of the Environment to Grant Planning Permission for a proposal to "*Construct extensions to South-West, North and East elevations. Raise roof to create first floor. Alter vehicular access onto La Rue Des Platons. Various external alterations.*"

DECISION DATE: 17 March 2016

LOCATION: Windermere, La Rue des Platons, Trinity, JE3 5AA

REFERENCE: P/2015/1837

APPEAL PROCEDURE: Hearing (8 July 2016)

SITE VISIT: 8 July 2016

DATE: 10 August 2016

Introduction

1. This report contains my assessment of the appeal made by Mr and Mrs Rault (the Appellants) against the decision of the Department of the Environment to grant planning permission for extensions and alterations to their neighbour's property.
2. The application proposal relates to a bungalow built in the early 1970's on a plot on the south-western side of La Rue des Platons. It is one of a small cluster of dwellings in this rural Green Zone setting. The bungalow is set within the southern half of its plot, with a small enclosed rear garden. To the front of the bungalow (the northern part of the plot) is a lawned garden.
3. The existing floor plans submitted with the application indicate that, internally, the bungalow comprises three bedrooms, a bathroom, kitchen and through lounge / dining room. There is an attached single garage on the south-east side of the dwelling.
4. Windermere's closest neighbour is the Appellant's home, which is known as La Geonniere. It is a mid-nineteenth century former farmhouse and is a Potential Listed Building. It is located just under 7 metres distance from Windermere's nearest wall (the edge of the single garage). There is a hedge and driveway separating the properties.

The Planning history and the current Planning application

5. There have been two applications for similar proposals at Windermere.

Application P/2015/1110

6. In July 2015, application P/2015/1110 was submitted. It sought permission for a scheme of extensions and remodelling of the bungalow. The ground floor extensions were modest in area, comprising small additions to the front (lounge) and rear (dining) areas on the western part of the bungalow, along with the infilling of the area behind the garage to create a store.
7. The proposals also involved the creation of a first floor (over much of the extended ground floor). This would have accommodated a master bedroom with dressing room and en suite, a bathroom and two further double bedrooms (one with en suite). The application also included some revisions to the existing vehicular access to the road.
8. This particular scheme had been the subject of pre-application advice (in October 2014), with the case officer at that time expressing strong concerns regarding the scale and massing of the development and the resultant impact upon the adjacent dwelling (La Geonniere) to the south-east. I am informed that this advice was further emphasised in a later pre-application meeting.
9. The application was refused by notice dated 9 September 2015. The reason for refusal stated:

Reason 1: The proposals, would by virtue of their siting, scale and form, add considerably to the visible bulk and massing of the dwelling house, creating a two storey gable end in very close proximity to the north west elevation of the adjacent property, La Geonniere. This is considered to represent an unduly dominant and overbearing built form, which is likely to cause an unreasonable degree of harm to the amenity of the said neighbouring occupiers, contrary to policy GD1 of The Adopted Island Plan 2011 (Revised 2014).

Application P/2015/1837

10. In December 2015, a revised application was submitted which sought to overcome the reason for refusal. This application proposed the same extensions at ground floor level. It also included the same accommodation at the proposed new first floor level and the vehicular access alterations.
11. However, the extension's roof form, closest to the neighbour, had been revised from a gable to a form which would be partly hipped, to reduce its impact (on La Geonniere). It also proposed that the rear facing windows and rooflights would be obscure glazed.
12. This application was approved by the Planning Applications Committee at its 17th March 2016 meeting.

The Appellants' Grounds of Appeal

13. The Appellants' grounds of appeal are wide ranging. They can be summarised:

Ground 1 – a similar scheme was refused as being contrary to Policy GD 1

Ground 2 – officer pre-application advice raised 'strong concerns'

Ground 3 – a different Planning officer was used and the Applicant used to be a member of staff of the Planning Department

Ground 4 – Windermere was incorrectly stated to be a 3 bed property when it is a 2 bed property. The extensions could allow for a 5-bed house, representing a more than doubling of occupancy

Ground 5 – inadequate drainage

Ground 6 – excessive scale and impact on neighbouring properties and the character of the area

Ground 7 – the proposal would be harmful to La Geonniere which is an important listed building

Ground 8 - the proposal is contrary to the Island Plan

14. It was noted at the Hearing that drainage capacity and connection matters (Ground 5) were private civil matters and would need to be resolved outside the scope of the Planning system.

The Main Issues and Assessment

15. I assess that there are four main issues to consider in this case. The first three are strictly Planning issues; the fourth is an issue concerning process and probity. The issues are:
- (i) Compliance of the extension proposals with Policy NE 7 (Green Zone).
 - (ii) Residential amenity impacts arising from the extension design and compliance with Policies GD 1 and GD 7.
 - (iii) The effect of the proposed extensions on the setting of the Listed building (La Geonniere) and compliance with Policies SP 4 and HE 1.
 - (iv) Process and probity issues concerning one of the Applicants former employment role and her acquaintance with the Department's Planning officers.

Issue 1 - Compliance with Policy NE 7 (Green Zone)

16. The Green Zone Policy, NE 7, sets out the general presumption '*against all forms of development*'. However, the policy extends to allow the opportunity for some specified exceptions. These include domestic extensions (exception 1), subject to appropriate design, and to ensuring the proposals do not facilitate 'significant increased occupancy' and / or the creation of a separate household.
17. Windermere is a modest bungalow, which is entirely single storey in its design (there is no attic accommodation). I measured¹ its existing floorspace (including the garage) to be circa 117 square metres. The extensions would increase the ground floor area to about 154 square metres. However, the first floor would add a further 134 square metres i.e. the proposed first floor space would be greater in size than the existing bungalow. By my calculations, the extended dwelling would have a floorspace of 289 square metres, more than doubling the existing floorspace.
18. In terms of the internal accommodation a 3 bedroom / 1 bathroom bungalow would become a 4 bedroom (at least) / 3 bathroom two storey house. There would be scope to increase bedroom numbers to five through use of the indicated 'playroom' for sleeping, and further still, should the garage be converted in the future (the proposals entail a double skin side wall to the garage).

¹ I have scaled off printed drawings so some margin of error should be allowed.

19. Policy NE 7 does not set precise parameters for domestic extensions either in terms of floorspace or bedroom numbers. It merely sets the test that extensions must 'not facilitate significant increased occupancy'. Underlying, this test is the Planning objective of seeking to limit new 'occupants' in Green Zone locations, due to the pressure placed on the fragile environment and infrastructure and the general issues of sustainability e.g. the inevitable car trip generation and dependence arising from people living remote from day to day services.
20. The pre-ambule to Policy NE 7 states that the 'purpose' (of the extension) will be a material consideration. In this case, the purpose explained by the Applicant is simply to provide better and more spacious family accommodation i.e. there is no indication of planned additional occupancy.
21. However, the substantial increase in floorspace could, without doubt, facilitate more occupants living at the property. I could see that, in theory, at least, occupancy could double quite comfortably. I would regard that as 'significant'. I appreciate that this is not the Applicant's stated intention, but the important Planning test is about facilitation.
22. Overall, I do consider that the extensions would substantially expand the floorspace and that this could facilitate significant increased occupancy. There is therefore a tension with Policy NE 7 exception 1.

Issue 2 - residential amenity impacts arising from the design and compliance with Policies GD 1 and GD 7

23. The previous application was refused due to the impact of the proposal on La Geonniere. There is a series of windows along the north west elevation of La Geonniere, which face the drive and single storey garage beyond. At ground floor level these serve a utility area, a WC, a hall and kitchen (which is also lit by windows on its other side). These windows all sit in a much later part of the house i.e. an extension to the main nineteenth century farmhouse.
24. The distance from these windows to the proposed extension at Windermere is 6.775 metres, based on the submitted plans. The existing Windermere garage is about 2.6 metres high and the bungalow behind has a ridge height of 4.53 metres.
25. As proposed in the previous application (P/2015/1110) the extension would have presented a blank gable elevation to La Geonniere, which would be about 7.655 at its maximum height (from ground level). It would have been quite imposing on La Geonniere and I consider the refusal of that application was entirely justified on Policy GD 1 amenity grounds.
26. The current application, proposes to hip the roof to reduce the impact. However, it is only a part hip, the roof plane commencing at a height of about 4.5 metres above ground level. When viewed from La Geonniere, a quite large expanse of wall would be visible – the wall would be over 8 metres long and 4.5 metres high (for most of its length).

27. Various photographs were produced by the Appellants and the Applicant seeking to demonstrate whether there would, or would not, be any shadowing effect arising from the extensions. I have not applied any significant weight to these images, given their contested nature and their submission outside the procedural timescales. In my view, there will be some shadowing effect but it will be very limited in nature, and confined to late in the day in the summer months. I do not consider this very limited shadowing, in itself, to be unreasonable in terms of Policy GD 1.
28. However, I do have concerns about the sheer physical massing impact on La Geonniere. It is little different to that of the previously refused scheme and, in my view, quite overbearing. In my view, the proposal conflicts with Policies GD 1 and GD 7.

Issue 3 - The effect of the proposed extensions on the setting of the Listed building (La Geonniere) and compliance with Policies SP 4 and HE 1.

29. La Geonniere is a handsome former farmhouse that is a Potential Listed Building. As its Listing is still to be confirmed, there is little information about it on the Historic Environment record. However, there is a 'significance' entry, which states: *This mid C19 farmhouse retains its proportions and fine stonework to front facade. It contributes to its rural setting.* It has some additional historic interest as the first house visited by an Allied Commando party during a reconnaissance raid in 1944. The draft listing notes the later extension (facing Windermere) as '*not of interest*'.
30. The Island Plan strategic Policy SP 4 provides a high level of protection of the Island's historic environment, including heritage assets. Policy HE 1 states that there will be a presumption in favour of preserving and enhancing the special interest of Listed buildings and places and their settings. It states that proposals that do not preserve or enhance the special or particular interest of a Listed building or place and their settings will not be approved.
31. I have concerns about the impact of the proposals on the setting of La Geonniere. Viewed from the north, Windermere is presently a very low rise and modest building compared to its more substantial historic neighbour. The extended and much taller Windermere will change that relationship dramatically.
32. It will be of comparable height (to the farmhouse), close to it and quite substantial in its bulk and imposing presence. In my view it will crowd and compete with La Geonniere, when observed from public viewpoints and will not preserve or enhance the setting of the Potential Listed Building. I consider that the proposal conflicts with Policy HE 1

Issue 4 - Process and Probity matters

33. One of the Applicants had a previous employment role with States. The role was in the Chief Minister's Department (within the Personnel function) and not within the Planning and Environment Department itself. However, there was some professional interaction and acquaintance i.e. one of the Applicants was known to some officers.

34. I understand that there is a protocol that where the Department's officers make Planning applications themselves, this triggers a committee determination. However, these rules do not apply to the States' wider workforce, as that would be considered unworkable given the size of the Island and the number of people employed in the public sector.
35. However, the application was reported to the committee in any event (given the number of representations), although it was not specifically advised of the employment status matter. In any event, the Applicant no longer works for the States.
36. I do not consider that there is any evidence of mishandling of the applications, or of any favouritism. However, I do think that officers may wish to consider whether, in circumstances such as these, it may be prudent to record any known acquaintanceship in their reports for transparency.

Conclusions and recommendation

37. Put simply, my conclusion is that the extension is far too big.
38. There are three inter-related reasons that lead to this conclusion. First, the scale of the extension would increase the floorspace by about two and half times; this is excessive and could facilitate significant increased occupancy in conflict with Policy NE 7. Second, the design of the extension will have an overbearing and unreasonable impact on the amenities of La Geonniere. Third, the proposal's scale and design will harm the setting of the Potential Listed Building.
39. For these reasons, individually and collectively, I recommend that the Minister **ALLOWS** this appeal and refuses Planning Permission for the application P/2015/1837 for the following reasons:

Reason 1: The proposals would, by virtue of their excessive scale, result in a very substantial increase in floorspace of the dwelling, which would facilitate a potential significant increase in residential occupancy. As such, the proposal conflicts with Policy NE 7 of The Adopted Island Plan 2011 (Revised 2014), which seeks to limit occupancy in the Green Zone to protect the environment and to support the principles of sustainable development.

Reason 2: The design of the proposals would, by virtue of their siting, excessive scale and form, add considerably to the visible bulk and massing of the dwelling house, in very close proximity to the north-west elevation of the adjacent property, La Geonniere, which contains a number of windows. This would represent an unduly dominant and overbearing built form, which would result in an unreasonable impact on the residential amenities of La Geonniere. As such, the proposal is contrary to policies GD 1 and GD 7 of The Adopted Island Plan 2011 (Revised 2014).

Reason 3: The design, excessive scale and proximity of the proposals, would result in an unduly imposing and harmful impact on the setting of La Geonniere, a Potential Listed Building. As such, the proposal will not

preserve or enhance the setting of the Potential Listed Building and conflicts with Policy HE 1 and SP 4 of The Adopted Island Plan 2011 (Revised 2014).

P. Staddon

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