

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

**Appeal under Article 108 against a decision made under Article 19 to
refuse planning permission**

REPORT TO THE MINISTER FOR THE ENVIRONMENT

made under Article 115(5)
by D A Hainsworth LL.B(Hons) FRSA Solicitor
the inspector nominated under Article 113(2) from the list of persons
appointed under Article 107

Appellant:

Helena Barry

Application reference number and date:

P/2015/1896 dated 17 December 2015

Decision Notice date:

19 February 2016

Site address:

Acacia, 8 Cleveland Road, St. Helier HE2 4PB

Development proposed:

Create vehicular access onto Cleveland Road

Inspector's site visit date:

7 September 2016

Introduction

1. This is an appeal by the applicant against the decision of the Department of the Environment, issued after a review, to refuse planning permission for the development described above.
2. The reasons given for the refusal of planning permission are: -
 - "1. The proposed development does not provide enough space to enable a vehicle to turn on the site in order to enter the highway in a forward direction nor does it provide adequate visibility splays. The scheme would therefore be prejudicial to highway safety and therefore

fails to satisfy the requirements of Policy GD 1 and BE8 of the Adopted Jersey Island Plan, 2011 (Revised 2014).

2. The proposal will result in the loss of a substantial proportion of the existing front boundary wall which will have a detrimental impact on the character and appearance of the street scene wherein traditional front boundary walls / railings to residential properties have, to date, been retained in their original form. Accordingly, the proposal fails to comply with Policy BE8 of the Adopted Jersey Island Plan, 2011 (Revised 2014)."
3. The criteria in Policy GD 1 relevant to the development are 5.b and 5.c. 5.b states that development should not lead to unacceptable problems of traffic safety or parking; 5.c states that development should provide a satisfactory means of access, manoeuvring space within the site and adequate space for parking.
4. Policy BE 8 is directed at frontage parking. It states:
"Development proposals involving the loss of front gardens, and their boundary features, to provide for frontage parking with direct access off the public highway will not be approved where this would have a detrimental impact on the character and appearance of the street scene or on highway safety."

Details of the site and its surroundings

5. Acacia is a house in the northern part of Cleveland Road. This part of the road is a one-way street, north to south. There are parking restrictions in several places, including Acacia's frontage.
6. Most of the frontage development here is residential, but there is a large building containing a clinic and a pharmacy just south of Acacia. This building has its own parking facilities. Most, but not all, of the houses in the northern part of Cleveland Road have no off-street parking space.
7. The front yard of Acacia has a low wall alongside the pavement with railings on top and a metal pedestrian gate. These are characteristics that it shares with the house to the south on the same side and with others to the north on both sides. Directly opposite to Acacia and further south, the road frontage in the northern part of Cleveland Road is very different on both sides, with the main features being either high boundary walls or open frontage.

Description of the proposed development

8. The development involves the removal of most of the low wall and railings, and the gate, in order to provide a wide, open access to the front yard. The objective is to enable the yard to be used as a parking space for a car.

9. The distance between the front of the house and the pavement is not sufficient to allow an average-length car to be parked at a right angle to the pavement, without overhanging the pavement. To avoid overhanging, the car would have to be driven in and out over the pavement diagonally and parked at an angle of around 45° to the pavement.

The case for the appellant

10. The appellant states that the standard of visibility for drivers would be no worse than at several other accesses in the vicinity. It would be better, she maintains, than when drivers reverse out of the access on the opposite side of the road, where their view of oncoming vehicles is obstructed by parked cars.
11. The appellant considers that her car could be driven on to and off the parking space in forward gear. She believes that drivers manoeuvring in and out of parking spaces always take care when doing so and that pedestrians do so as well when they see drivers pulling out. She is willing to install mirrors on each side of the access to improve visibility.
12. The appellant maintains that the development would not have much impact on the street scene here. In her opinion, the street scene here does not have the same heritage interest as the southern part of Cleveland Road beyond La Route du Fort.

The case for the Department of the Environment

13. The Department consider that the development would be prejudicial to highway safety. They point out that it would be necessary to use the road and pavement for turning manoeuvres. The suggested use of mirrors is not considered to be a reliable or permanent solution to the lack of visibility and could look incongruous.
14. The Department have examined other accesses and parking spaces in the vicinity. They state that the majority allow a car to be parked at right angles to the road, which is significant in terms of visibility. They accept that some accesses created in the past may not meet present standards, but indicate that current policies do not support the creation of accesses that are considered prejudicial to highway safety.
15. The Department acknowledge that the house itself has no special historical or architectural merit, but maintain that the street scene here is enhanced by strong boundary features, which would be harmed by the removal of the wall and railings. They point out that Acacia would be the only house in the row where this had occurred.

Other representations

16. The Roads Committee of the Parish of St Helier comment that it has not been shown that adequate visibility can be achieved, particularly since

there is a high wall to the north of the property which will limit vision.
[There are in fact fairly high walls on both sides of Acacia's front yard.]

Inspector's assessments

17. The main issues in the appeal are the effects the development would have on highway safety and on the street scene.

Highway safety

18. As this is a one-way street, all drivers would approach the parking space from the north.
19. It would just about be feasible to drive from the road forwards on to the parking space, heading towards the front door, and then to manoeuvre backwards towards the front window, to enable the car to be driven forwards back on to the road at a later time. This would, however, involve diagonal movements in each direction across several metres of pavement and turning movements on the parking space that could involve some encroachment on to the pavement. The safety of pedestrians would be adversely affected.
20. Because of the width of the road and the routine presence of parked cars, I doubt whether it would be feasible to turn from the road directly on to the parking space, so that the front nearside wing of the car was next to the window. Some manoeuvring within the road would probably be needed, which would interrupt the flow of traffic and be potentially hazardous.
21. The option remaining would be to reverse on to the parking space, so that the rear offside wing of the car was near the window. This would allow the car to be driven forwards back on to the road. It would, however, involve reversing the car against the flow of traffic. This, again, would interrupt the flow of traffic and be potentially hazardous.
22. Whichever option is taken, there would be difficulties with visibility for drivers leaving the parking space, since they would be at an angle of around 45° to the pavement and between the fairly high walls on each side of the parking space. Drivers would not have a clear view of pedestrians on the pavement or of oncoming vehicles in the road, even in good weather conditions. Mirrors are not normally considered to be an answer to such problems, since they may provide only a partial view or a distorted view.
23. The circumstances at the parking area which was approved at the house opposite Acacia are not the same. Here, there is enough space between the garage doors and the pavement to park a car at right angles to the pavement without encroachment. The extended parking area to the right of the garage is not ideally configured, but there is far more manoeuvring space within this parking area as a whole than would be the case at Acacia.

24. I conclude on this issue that the development would be prejudicial to highway safety and contrary to criteria 5.b and 5.c of Policy GD 1 and the highway-safety factor in Policy BE 8.

The street scene

25. The street scene here does not have the same interest as it has towards the southern end of Cleveland Road. Nevertheless, the characteristic low walls and railings alongside the pavement, which Acacia shares with the house to the south on the same side and with others to the north on both sides, are longstanding features that give the street scene a distinctive and pleasant character and appearance.

26. One of the impacts of frontage parking that Policy BE 8 seeks to avoid is the loss of boundary features, where this would have a detrimental impact on the character and appearance of the street scene. In my opinion, this is what would occur in this instance if the development took place.

27. I conclude on this issue that the development would be detrimental to the street scene, contrary to Policy BE 8.

Inspector's recommendation

28. I understand the appellant's wish to have a parking space at her house and to avoid the need to look for a parking space elsewhere, but for the reasons I have given I consider the proposals should not be approved, because of the impact they would have on highway safety and the street scene.

29. I recommend therefore that, in exercise of the power contained in Article 116 of the Planning and Building (Jersey) Law 2002 (as amended), the appeal should be dismissed.

Dated 22 October 2016

D.A.Hainsworth

Inspector