

REPORT TO MINISTER FOR PLANNING AND ENVIRONMENT

By Graham Self MA MSc FRTPI

Appeal by Mr R Cooke against a refusal of planning permission.

Reference Number: PP/2016/1185

Site at: Le Passage Farm, Le Passage, St Lawrence, JE3 1GP

Introduction

1. This appeal is being determined by written representations. I made a site inspection on 27 January 2017.
2. The application was dated 10 and 11 August 2016¹ and was refused on 24 November 2016.² The proposed development was described in the application as: "Demolish derelict glasshouses and replace with 2 new dwellings and new access onto Le Passage". The application sought outline permission but with design, means of access, external appearance and siting specified as to be determined, that is to say with only "landscape" specified as a reserved matter.
3. In the planning authority's refusal notice, the development was described as: "Demolish glasshouses and construct 2 no. four bed dwellings to East of site. Fixed matters: Design, means of access, siting, external appearance and materials. Reserved matters: Landscape. 3D Model available".
4. This report provides a brief description of the appeal site, summarises the gist of the representations, and sets out my assessment, conclusions and recommendation. The appeal statements and other relevant documents are available for you to examine if necessary.

Appeal Site

5. The appeal site is on the north side of Le Passage. At the front of the site next to the road there is a grassed area backed by a high evergreen hedge. To the north behind the hedge is a derelict glasshouse. Further north again there are other glasshouses, two of which (outside the appeal site, hatched blue on the aerial photograph at Appendix 4 of the appellant's statement of case) are in use and one (within the appeal site) is derelict.
6. To the west there is a dwelling and some farm buildings, and further to the north-west is an area of land where I saw some building foundations (this is the area where evidently planning permission for housing development was granted in 2010). There is a residential area on the opposite (south) side of Le Passage and to the east of the appeal site north of the road. The houses in this area appear to date from the 1970s and are typically of chalet-bungalow style.

¹ The application was signed by the applicant on 10 August and signed by the agent on 11 August. It was stamped as received by the Department of Environment on 18 August.

² The appeal form specifies the decision date as 25 November 2016 but this appears to be wrong, as the decision notice is dated 24 November 2016. It was apparently sent to the applicant's agent with a covering letter dated 25 November.

Case for Appellant

7. The basis of the appellant's case is that when planning permission was refused insufficient regard was given to a number of matters. These include: the landscape character and context of the site, which is predominantly suburban; the site's location in a key rural settlement; the public consultation exercise which showed general support and no objections; the development brief for the site which was regarded as suitable for housing in the draft Island Plan of 2009; and a recent Minister's letter to owners of glasshouses advising them to explore options for development. All of those points justified an exception to policy.
8. Insufficient regard was also given to: the restoration of land back to agriculture; the fact that the remainder of the glass was in viable commercial use; other approvals to redevelop glasshouse sites elsewhere in the Green Zone; the need for housing and benefit of using brownfield land; and the derelict state of the glasshouses and their redundancy. Too much weight was given to an unrealistic expectation of an economic return for the derelict glass, which would need to be demolished for the land to be restored for agricultural use or rebuilt at significant cost.
9. The characteristics of the appeal site represent unique circumstances not repeated anywhere else in Jersey, which justifies the proposal as a policy exception. The low density of the proposed development would improve the appearance of the area. This view was shared by most of those who attended a public exhibition of the scheme.
10. Jersey's Future Housing Needs 2016-2018 identified a potential shortfall of over 1,000 owner-occupied units. The supply of housing has not been delivered to the level expected in the Island Plan; since inward migration has been greater than predicted. The best use should be made of all sites including small developments outside the built-up area so as to meet a severe housing shortfall. It would be good planning sense to make best use of this small infill site on brownfield land next to the main rural settlement of Carrefour Selous. The appeal could also be an opportunity for a planning obligation agreement to require old glasshousing north of the appeal site to be removed given the likelihood that it may become redundant in the near future.
11. Repairing the existing glass on the site is an unrealistic proposition. No landowner would make such an investment and no other party would buy the land on that basis. The derelict glasshouses were marketed based on the experience of Buckley & Co, who suggested that if the owner is entitled to a reasonable economic return the rental should be £0.75 per square foot. It would not be economically viable to market the site at a lesser rate. The glasshouse industry in Jersey has been in decline since the 1980s and the site is not suitable for other types of commercial use because of the poor access arrangements.
12. The proposed dwellings would have a traditional design in keeping with the location and the proposed layout with parking to the rear would be more visually acceptable than having frontage parking. The proposed granite roadside wall and new footpath would also be appropriate.
13. The proposal in the main is policy compliant. Approval should be recommended in accordance with Article 19(2) of the 2002 Law if the application is considered to be inconsistent with the Island Plan, or in accordance with Article 19(3) because the unique circumstances justify approval.

Case for Planning Authority

14. The planning authority consider that the proposal would seriously harm the landscape character of the area and would not be acceptable under Green Zone policy as it does not fall within a permissible exception to policy NE7. This establishes a presumption against development in the Green Zone. Other policies also direct housing development into built-up areas.
15. The development would involve a loss of land from agricultural use, contrary to Island Plan policy and not being an exceptional case under policy ERE7 (under which the redevelopment of glasshouse sites may be acceptable in exceptional circumstances). The redundancy of part of the site has not been proved. Although the property has been advertised, the price sought was excessive.
16. The scale of the development would be far in excess of what would be justified to achieve removal of the existing structures. The scale of the development and extent of hard surfacing would not be offset by environmental gains, and would be more than the minimum required to enable clearance of glasshouses from the site.
17. The proposed houses would be over-dominant and out of character with the area, contrary to policies SP4, GD1 and others. The Department contests the appellant's description of the landscape character as suburban. The site is not within the settlement of Carrefour Selous, but adjacent to it.

Assessment and Conclusions

18. The appellant in this case has set out 15 "grounds of appeal" in the appeal statement. A key issue is the effect of the proposed development on the character and appearance of the area, having regard to relevant planning policies, but numerous other points are raised.
19. The site is on the fringe of a residential area, at the point where an area of buildings and housing becomes more rural in character. The appellant describes the area's character as "very much suburban".³ The planning authority appear to believe that just because the area is designated as Green Zone for policy purposes it is thereby rural in character. Neither of those descriptions is really apt, but the site is undeniably in the Green Zone for the purposes of Island Plan policy. Policy NE7 of the Plan provides that there is a general presumption against all forms of development in the Green Zone, although of course this is not a complete ban on development and various exceptions apply, under this and other policies.
20. Part of the appellant's case refers to the claimed benefits of removing derelict, redundant glasshouses. As the appellant points out, the preamble to policy SP1 of the Island Plan contains the statement that redundant and derelict glasshouse sites may help contribute towards the Island's development needs.
21. There are evidently various commercial and financial reasons for the decline in the use of glasshouses for agricultural production, both on this site and more generally in Jersey. This decline has led to the presence of disused glasshouses which can look unsightly, and the appellant sees this proposal as a small "infill" scheme which would improve the appearance of the land.

³ In different places in the appellant's statement, the appeal site is variously described as: "*within* the main rural settlement of Carrefour Selous"; "*adjacent* to the main rural settlement of Carrefour Selous"; and "...it *abuts* a main rural settlement..." (my italics).

22. In a message to the planning authority in August 2016, the appellant's agent referred to a newspaper article in August 2015 about a letter apparently sent to some owners of glasshouses. The article was headlined: "Minister aims to get rid of run-down glasshouses sites" and quoted a Ministerial statement that: "The carrot is that land owners know I have the ability to grant a certain amount of planning permission. The idea is that we can give enough value back through planning permission to pay for the demolition of the site and pay for a bit more besides".
23. Deciding what status the August 2015 Ministerial letter should have as a statement of policy is a matter for you as Minister; but as far as I can tell, the letter was not intended to alter Island Plan policy towards urban types of development in the Green Zone. The derelict glasshouses on the appeal site are not particularly prominent in views from Le Passage and in any case, planning policy on development in the Green Zone is not only concerned with appearance - the reasons for policies restricting housing development here include, for example, distance from facilities such as schools, shops or main employment centres and the aim to minimise the need for travel. Permitting new housing in locations where such development would not normally be permitted under planning policies may be a means of creating "tidier" sites, but would have long-term implications for transport and other "sustainability" issues.
24. Taking into account the points mentioned above, I suggest that the benefits which could result from permitting this proposal, in terms of the changed appearance of the land and the possible financial gain which could be used to maintain or improve glasshouses currently owned by the appellant, should have only limited weight.
25. I note the offer made on behalf of the appellant that he would be willing to enter into an agreement or undertaking to remove the glasshouses which are currently in use if or when they fall into disuse or disrepair. This suggestion is misguided for four reasons. First, no finalised undertaking or legal obligation has been submitted. Second, the appellant's argument that the land occupied by the glasshouses would be "restored to productive agricultural land" conflicts with the fact that the land (apparently occupied by a tenant) is currently in agricultural use. Third, the sort of undertaking suggested would seem not to provide any real control for the planning authority, as it would apparently leave it open to the appellant or a future owner to decide when the glasshouses would be deemed disused or disrepaired or redundant. Fourth, the planning authority's evidence suggests that parts or all of these glasshouses are already subject to conditions which would require their removal if and when they become disused, in which case the appellant's offer would not achieve anything new.
26. An incidental point is that although the appellant refers to the benefit of returning land occupied by the glasshouse in the northern part of the appeal site to "productive agricultural use", it is not possible to force any owner to use land for any purpose (as opposed to leaving it unused).
27. Planning permissions have evidently been granted for the redevelopment of redundant glasshouses elsewhere in the Green Zone. Each case has to be considered on its own circumstances, and from the information supplied about these other sites, I do not consider that they have set a precedent which should now be followed. Indeed, the appellant claims this site is unique in Jersey - that claim undermines the "precedent" argument.
28. Under Island Plan policy ERE 1 there is a presumption against the permanent loss of good quality agricultural land, and policy ERE 7 provides that there is a

presumption against the redevelopment of redundant and derelict glasshouses, subject to various exceptions. Among other things, where an exception is to be made there is a proviso that the amount of development permitted "will be the minimum required to ensure a demonstrable environmental improvement of the site". The available evidence in this instance - some of which is unconvincing anyway as it includes only one quotation to support the claimed cost of demolition and restoration works - indicates that the proposal would not meet this criterion.

29. The fact that planning permission was granted in 2010 for housing development on some land north-west of the appeal site - a permission which appears to have been prevented from lapsing by some construction works - is a weak argument in favour of the appeal proposal. Planning policies have changed since 2010, and seek to guide housing development into places with ready access to public facilities - more than just local facilities such as the village shop in Carrefour Selous.
30. Much the same applies to the fact that the site was regarded as suitable for housing in the draft Island Plan of 2009, when a development brief was evidently prepared (which evidently envisaged housing development at a much higher density than is now proposed). The site was designated as part of the Green Zone in the 2011 Island Plan and this designation was maintained in a later revision of the plan. According to the appellant, this only happened because of the views of the Constable of St Lawrence. The fact remains that it happened.
31. The need for housing in Jersey, arising from population growth and the effects of changing household size, may help to justify permitting residential development in some locations, perhaps including small sites outside the built-up area. In this case, I do not judge it to be a compelling or overriding factor.
32. Local residents have not objected to the principle of the proposed development and some, including nearby occupiers who visited an exhibition, have expressed support for it. The views of local residents do not alter or outweigh the planning objections to the proposal.
33. One of the reasons for the refusal of the application referred to the scale and design of the proposed houses and their placement on the site. The planning authority consider that the houses would be over-dominant and out of character with the area. Having seen the more modest scale of most nearby dwellings, I agree with that assessment. Although the houses would be set back from the road, their height and size would make them visually prominent and they would take away what remains of the area's rural or semi-rural quality.
34. The ecological issue mentioned in the fourth reason for refusal appears to be a material consideration, but if all other aspects were acceptable, it might have been possible to overcome this objection by means of a suitable condition.
35. I conclude that there were sound reasons for refusing planning permission. As neither side has made any suggestions for suitable conditions if planning permission were to be granted, I suggest that if you were minded to grant permission it may be appropriate to invite comments on possible conditions from the parties, following which I could if necessary submit a supplementary report.

Recommendation

36. I recommend that the appeal be dismissed.

G F Self

Inspector

14 February 2017