

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

Appellants:

Catterson Wood

Application reference number and date:

P/2016/1298 dated 16 September 2016

Decision Notice date:

19 December 2016

Site address:

La Nouvelle Chasse, La Route d'Ebenezer, Trinity JE3 5DT

Development proposed:

“Demolish existing dwelling, garages and outbuildings. Construct 2 No. 3 bed, 1 No. four bed and 2 No. five bed dwellings with associated garages, car ports, parking and landscaping.”

Inspector’s site visit date:

3 April 2017

Hearing date:

4 April 2017

Introduction and procedural matters

1. This is an appeal by the applicants against the decision of the Department of the Environment to refuse planning permission for the development described above.
2. The reasons given for the refusal of planning permission are as follows: -
 - “1. The proposal represents a cramped form of development which would not respect or contribute to the character of the area. In particular the proximity

of Units 1, 2 and 3 to one another; of Unit 1 to Unit 5; the compromised design of Unit 1 and 3 with regard to the placement of windows; the lack of parking; the quantum of hard surfacing; and the minimum garden sizes are illustration of this. Consequently the proposal fails to meet the high standards of design expected by Policies GD1, GD7 and H6 of the Adopted Island Plan 2011 (Revised 2014).

2. The height and proximity of Unit 1 to La Ruche, adjacent to the eastern boundary of this site, would have a detrimental effect upon it due to loss of light and overbearing impact, contrary to Policies GD1 and GD7 of the Adopted Island Plan 2011 (Revised 2014).

3. The proposal would intensify the vehicular use of the site but fails to achieve the improvement required with regard to the visibility spays and thus does not comply with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).

4. No information has been submitted to prove that this proposed development would not harm protected species or their habitats, as required by Policies GD1 and NE2 of the Adopted Island Plan 2011 (Revised 2014)."

Procedural matters

3. The fourth reason for refusal is no longer an issue, because the appellants have since submitted an Ecological Survey Report that the Department have accepted, subject to matters of detail that could be dealt with by planning conditions if planning permission were to be granted.
4. The owner of Bamfield on the eastern side of La Nouvelle Chasse has pointed out that the application plans include a narrow strip of land which is within Bamfield's garden area. The capacity of La Nouvelle Chasse to accommodate the proposed development would not be affected by the exclusion of this land from the application site. This matter could be dealt with by the submission of amended plans, if it were proposed to grant planning permission for the proposed development.
5. The Department have also drawn up a list of other errors of detail in the submitted plans. These should be corrected if it is proposed to grant planning permission for the proposed development.
6. A list of nine suggested planning conditions dealing with the matters referred to in paragraphs 3, 4 and 5 above and other matters of detail was submitted by the Department at the hearing, for consideration in the event of the appeal being allowed. This list was agreed at the hearing with the addition of two further conditions relating to Percentage for Art and the withdrawal of permitted development rights for extensions and dormer windows at Units 1, 2 and 3 of the proposed development. The appellants also agreed to a suggestion that they should contribute towards the provision of a bus shelter in Trinity if planning permission is granted.

Description of the site and its surroundings and the proposed development

7. La Nouvelle Chasse is single-storey L-shaped residential property consisting of two units with a total of seven bedrooms, together with garages, outbuildings and extensive gardens. All the buildings, except one of the garages, are within

the Built-up Area. This garage (which would be demolished) and the large area of garden in the southern part of the property are within the Green Zone.

8. There are open fields beyond the southern boundary of the property and beyond most of its western boundary, but the property otherwise borders residential properties. A detached dwelling has recently been built on the north-western side of the property. The property is part of a substantial cluster of mainly residential development on the western side of Trinity that has a variety of building styles and layouts.
9. The proposed development would have Units 1, 2 and 3 in the northern part of the site. These have been designed in the form of a traditional farmstead with courtyard buildings. Units 4 and 5 would be in the southern part of the site. These have been designed in the style of large set-piece country houses.
10. All the Units, together with the associated garages, car ports, access ways and parking areas, would be located within the Built-up Area. The large area of the garden that is within the Green Zone would remain as garden areas and be divided between Units 4 and 5. The Department have therefore not raised any concerns about Green Zone policies.
11. The vehicular access to the proposed development would be on La Route d'Ebenezer, where the existing entrance to La Nouvelle Chasse exists. The entrance would be widened and laid out with improved visibility splays. A new length of footway would be provided for pedestrians.

The case for the appellants

12. The appellants consider that the proposed development would accord with Island Plan policies promoting new housing development in the Built-up Area and delivering greater housing yields than have previously been achieved. They indicate that Policy H6 states that such development will be permitted if it meets housing standards. They state that the standards relating to internal floorspace, layout, parking and outdoor amenity areas would be met.
13. The appellants maintain that the density of the proposed development would be acceptable and that it has been designed and would be laid out in a way that accords with the character and appearance of the area. They do not accept that the residential amenities of the occupiers of La Ruche, or of any other neighbours, would be unacceptably affected.
14. As to the third reason for refusal, the appellants point to the traffic survey that was carried out after the appeal was submitted and to the further consultations with the Department for Infrastructure. They maintain that the sightlines that would be provided at the vehicular access would be adequate.

The case for the Department of the Environment

15. The Department acknowledge that Policy H6 creates a general presumption in favour of new housing development in the Built-up Area, but state that this does not outweigh the need to address other relevant policies in the Island Plan. In this instance, the Department do not consider that Policies GD 1 and GD 7 would be complied with, because of the drawbacks identified in the first two reasons for refusal.

16. As to the third reason for refusal, the Department for Infrastructure indicate that the traffic survey carried out after the appeal was submitted shows that the visibility standard to the east would not be met. They also question whether the visibility splay to the west could be achieved since it includes land occupied with the new dwelling on the north-western side of the property.

Representations made by others

17. A considerable number of objections have been received from interested persons. They raise concerns, in particular, about the scale of the proposed development, the impact on neighbours' amenities and the effect on traffic conditions in this part of La Route d'Ebenezer.

Inspector's assessments and conclusions

18. I consider the main issues in the appeal to be (a) whether an acceptable standard of residential development would be achieved, (b) whether there would be an unacceptable effect on the amenities of adjoining residents and (c) the effect the proposed development would have on traffic conditions in this part of La Route d'Ebenezer. I have dealt with these issues in paragraphs 19 to 30 below in reverse order and then reached an overall conclusion.

The effect on traffic conditions

19. The Technical Guide "Access Standards for Small Housing Developments" (Second Issue 04/10/2016) indicates that, from a point 2.4m back from the edge of the carriageway at the entrance to the proposed development, there should be a visibility splay at a height of 0.9m above road level for a distance of 43m in each direction along La Route d'Ebenezer. The appellant's proposals show such a visibility splay of 50m to the west, but of only 41.5m to the east. The 50m splay to the west would be dependent on maintaining a clear view over private land between the front of the new house and the road. 41.5m is the most that can be achieved to the east, because the corner of the house, La Ruche, is in the way.
20. The Department have some outstanding issues to resolve regarding access to the new house, but they are satisfied that the proposed development would benefit from a condition imposed on the planning permission for this house, as a result of which the proposed development would have a visibility splay to the west of 45m. The appellants have also produced evidence indicating that La Nouvelle Chasse retained sufficient control over the land within the visibility splay when it was transferred to the owners of the new house. I am therefore satisfied that, if this appeal were allowed, an adequate visibility splay to the west could be provided and retained and an enforceable planning condition requiring this to be done could be imposed.
21. The visibility splay of 41.5m to the east would be only 1.5m less than the distance advised in the Technical Guide. There is no evidence before me to suggest that road safety would be adversely affected by this minor shortfall. There would in fact be a considerable improvement to the east in the standard of visibility that exists at La Nouvelle Chasse at present. The proposed development would also improve road safety here by providing a pedestrian footway between the entrance and La Ruche, where no footway exists at present. On balance, I consider that the shortfall should be accepted in this instance.

The effect on the amenities of adjoining residents

22. With the exception of the new house and La Ruche, no other houses would be particularly close to the proposed development. The gardens on the eastern side are screened by existing vegetation, which would be retained. The new house appears to have been designed and laid out to avoid an adverse impact from development at La Nouvelle Chasse.
23. La Ruche had a conservatory next to its boundary with La Nouvelle Chasse at the time when the decision to refuse planning permission was taken. This conservatory has since been demolished and is being replaced by single-storey extension, which has a solid wall with no openings on the side facing La Nouvelle Chasse. The only opening in La Ruche here is a secondary ground-floor side window on the boundary, the outlook from which is substantially restricted already by the nearest part of La Nouvelle Chasse. The proposed development at this point has been designed to limit any further loss of light, domination or overlooking: it would be 1½-storey only here, with only rooflights at first-floor level; a 0.9m strip of land would be ceded to La Ruche to allow access along this side of La Ruche from the road; and there would be a 1.8m-high fence on the new boundary.
24. I conclude on this issue that the proposed development would not result in any adjoining residents experiencing unreasonable harm to their standards of amenity. In this respect, I consider that the proposed development would comply with the criteria in Policies GD 1 and GD 7.

The standard of residential development

25. I agree that the Island Plan encourages new residential development at a higher density on suitable sites within the Built-up Area and that La Nouvelle Chasse is, in principle, capable of providing more housing accommodation than exists on the site at present, without impairing the character or the appearance of the area. Nor do I take issue, in principle, with the proposal to replicate on the site a traditional farmstead with courtyard buildings or two large country houses. There are examples of both these types of development in the area. My concern is whether the site is capable of accommodating everything that has been proposed and still providing an acceptable standard of residential development. With this in mind, I have assessed in paragraphs 26 to 29 below the particular concerns identified by the Department in the first reason for refusal and the appellants' response to those concerns.
26. The reference to the lack of parking is to a shortfall of one car-parking space, based on the parking guidelines adopted in 1988. These guidelines are out of date and widely considered in present-day circumstances to call for an unsustainable number of parking spaces. I do not consider that the shortfall of one space in these circumstances warrants the withholding of planning permission if the proposed development is acceptable in other respects.
27. Unit 2 would have the style and appearance of a traditional farmstead, and on its own it would look attractive, but in a traditional courtyard layout I doubt whether it would have the substantial dwellings on each side that would be constituted by Units 1 and 3 or that there would be so little space around the buildings. The outcome would be as follows: Unit 1 would have a very restricted outlook from its ground-floor windows and be reliant on rooflights on the upper floor; much of Unit 3's ground-floor outlook would be on to hard-

surfaced circulation areas and it would also be reliant on rooflights on the upper floor; and both Units 1 and 3 would have small, hemmed-in external amenity areas.

28. Overall, there would be an impression of overcrowding, which would be compounded by the proximity of the two large country houses at the rear. These, again, would look attractive in their own right, but their northwards projecting wings in particular would have a congested appearance alongside the rear of the courtyard development.
29. I have no reason to doubt that the proposed development would comply with the housing standards referred to by the appellants, but these standards should not in my opinion be applied in isolation. The proposed development should be considered in its context, having regard to the characteristics of the development as a whole. In my view, the appellants have attempted to accomplish more on the site than it can satisfactorily accommodate and, in doing so, they have put forward proposals that fail to achieve the high quality of design and layout called for by Policies GD 1 and GD 7.

Other planning decisions

30. The appellants and the Department have drawn my attention to other planning decisions relating to development elsewhere on the Island and I have taken these into consideration. None of the decisions is directly comparable to the development proposed in this appeal. All of them were dependant on the assessments that were made of the specific details of the proposals and of their acceptability, having regard to the particular circumstances of the application sites and their surroundings. I have approached this appeal in the same way.

Overall conclusion

31. I agree with the Department that Policy H6 creates a general presumption in favour of new housing development in the Built-up Area, but that this does not outweigh the need to address other relevant policies in the Island Plan. In this instance, in my opinion, the appellants have placed too much emphasis on the fact that the proposed development would comply with strategic policies and would be acceptable in the other respects I have identified; they have had insufficient regard to the concerns I have identified in paragraphs 27, 28 and 29 above. In my view, considerable weight should be attached these concerns, sufficient to tip the balance against the acceptability of the proposed development, notwithstanding its compliance with the Island Plan in other respects.

Inspector's recommendation

32. For the above reasons, I recommend that, in exercise of the power contained in Article 116(2)(c) of the Planning and Building (Jersey) Law 2002 (as amended), the appeal should be dismissed.

Dated 6 May 2017

D.A.Hainsworth
Inspector