

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. K. Vibert

AGAINST: Decision of the Department of the Environment to Refuse to Grant Planning Permission for a proposal to "*Construct extension to North-East elevation. Various external alterations.*"

DECISION DATE: 19 April 2018

LOCATION: Helie's Cottage, La Ruelle Vauclose, St. Helier, JE2 3JD.

REFERENCE: P/2017/1665

APPEAL PROCEDURE: Written Representations

SITE VISIT: 5 July 2018

DATE: 3 August 2018

Introduction

1. This report contains my assessment of the appeal made by Mr K. Vibert (the Appellant) against the decision of the Department of the Environment to refuse to grant planning permission for an application to extend and alter a dwelling known as *Helie's Cottage*¹.

The site and its surroundings

2. *Helie's Cottage* is a relatively recently constructed dormer bungalow, situated on an irregular shaped plot with a frontage to La Ruelle Vacluse, from which vehicular access, via a drive, is gained. It occupies an elevated position on the escarpment slopes just to the north of First Tower and enjoys panoramic views over St Aubin's Bay.
3. The dwelling is sited towards the rear of the plot and has a simple rectangular footprint, being approximately 7 metres wide and 15 metres in length. It is of a straightforward 1.5 storey design, with a symmetrical pitched roof and chimney features at each of the gable ends. It is faced in high quality natural materials, the walls being granite faced and the roof covered in natural slates.
4. Internally, the property includes kitchen / breakfast, utility and lounge areas on the ground floor. On the upper floor, contained within the roofspace and lit by dormer windows and rooflights, there are two bedrooms, each with en-suite bathrooms and dressing rooms, and a small study. Externally, there are gardens and a hard surfaced parking area. The property does not have any garage facilities.
5. The property lies within the Green Zone and just outside the defined Built Up Area, which is immediately to the south of La Ruelle Vacluse. There is open land to the north and west of the plot and a dwelling and its garden immediately to the south.

Planning history

6. Planning permission for the construction of the dwelling was granted in 2009 under reference P/2008/2301. The Appellant's Planning Statement indicates that the dwelling replaced a former depot for a scaffolding business. The Statement also indicates that a 2010 application (under reference RP/2010/0154) for an extension to provide a garage and living accommodation was refused. This Planning history is confirmed in the Department's submissions. However, I have not been provided with full details of these previous applications.

Planning application P/2017/1665

7. The application was lodged in December 2017. It sought planning permission for an extension set at a right angle to the existing house, such that the proposed extended dwelling footprint would be 'L' shaped.

¹ The submissions by the Department and Appellant make references to both 'Helies Cottage' and 'Helie's Cottage', I have adopted the latter in this report.

8. The extension would comprise a double garage, lobby and shower room on the ground floor and a bedroom and en-suite at the first floor level. The extension would have granite faced walls and a pitched slated roof to match the existing house.
9. The extension's front (south-east) elevation would contain garage doors and entrance doors to the lobby and, within the roof plane, two dormer windows and a rooflight. The rear (north-west) elevation would include two doors, a small window and a rooflight. There are also some associated proposed alterations to the existing house, including the enlargement of the dormer window serving bedroom 1.
10. Following a Planning Committee review request, the Department confirmed the refusal of planning permission on 19 April 2018. Two reasons for refusal were cited:

Reason 1: The proposed development would have an overbearing impact and would not be sympathetic to the scale and mass of the existing building and therefore fails to satisfy the requirements of Policies GD 7 and BE 6 of the Island Plan 2011 (Revised 2014).

Reason 2: The design of the proposed development would not be appropriate relative to the existing building and its context and therefore fails to satisfy the requirements of Policy NE 7 of the Island Plan 2011 (Revised 2014).

The Appellant's Grounds of Appeal

11. The Appellant's grounds of appeal comprise detailed rebuttals of each of the reasons for refusal.
12. In response to Reason 1, the Appellant contends that certain matters have not been appropriately considered and given weight in favour of the proposal. First, it is argued that the proposed extension is of high quality design which accords with requirements of Policy GD 7. Second, the proposal would accord with Policy SP 2, which promotes efficient use of resources. Third, the scheme meets the criteria set out in Policy BE 6, concerning acceptable building alterations and extensions. Fourth, the Appellant argues that the reference to 'overbearing impact' is ambiguous and, in any event, the extension has no impact on any neighbouring property.
13. With regard to Reason 2, the Appellant contends that the proposal meets the allowable exceptions criteria for residential extensions within the Green Zone, as set out in Policy NE 7.
14. The Appellant further alleges that the decision was unduly influenced by the planning history of the site and that the proposal falls to be considered under the current Island Plan policy regime. He also states that other larger

extensions have been granted planning permission within the Green Zone, including a recent case decided by the Minister².

The Department's Response

15. The Department's case is set out in its original officer report, its 'review' report and a Statement of Case. The latter document explains that a similar, slightly smaller, proposal was refused in 2010. It states that the current proposal was considered "*disproportionate to the parent property, proposing a 60% increase in floor area and, due to its scale and perpendicular design, a ridge 12.5m long, 80% of the ridge of the house itself.*" It explains that, whilst residential extensions can be acceptable in the Green Zone, this will be determined by a proposal's scale, design and impact on landscape character. It advises that it would normally expect such an extension to be subordinate to the main house in terms of scale and height and it considers the appeal proposal to be unacceptable and overbearing. The Department clarifies that the reference to 'overbearing' relates specifically to the impact on the main house rather than upon neighbouring properties.
16. The Department states that the site's Planning history is material and that the previous refused extension in 2010 was considered to undermine the environmental gains secured by the development of the house (replacing the commercial yard use). It maintains that the current proposal would have a similar effect.
17. Finally, the Department states that strategic policy SP 2 is not intended to maximise built development in every part of the island and it needs to be read alongside other policies, notably NE 7, which sets a general presumption against development in the Green Zone.

The Main Issues and Assessment

18. The two main issues in this case both relate specifically to design considerations. The first issue concerns general design matters, in terms of considerations under Island Plan policies GD 7 and BE 6 (Reason 1). The second main issue relates, more specifically, to the appropriateness of the proposal within the more stringent Green Zone regime under Policy NE 7. There is a degree of overlap between the two sets of issues but, for clarity, I will appraise them separately, before reaching an overarching assessment.

General design assessment – Policies GD 7, SP 7 and BE 6

19. Policy GD 7 requires new development to be of high quality design that respects, conserves and contributes positively to the diversity and distinctiveness of the landscape and the built context. The policy states that the design should respond appropriately to a number of stated criteria. These include scale, form, massing, siting, density, inward and outward views, as well as the relationship to surrounding built form, topography and landscape. Strategic policy SP 7 addresses similar matters. Policy BE 6 deals

² Planning application reference P/2016/0868

specifically with design considerations for building alterations and extensions in a similar manner.

20. Whilst these policies provide a comprehensive general design approach, setting out a range of relevant considerations, they do not prescribe what is 'better by design'³. That is beyond the scope of the strict wording of planning policies and requires the judgement of the decision maker. Furthermore, there is no official design guide for home extension proposals in Jersey, beyond some fleeting references in a Policy Note⁴ relating to housing developments more generally (rather than extensions). The assessment and decision making is therefore inescapably subjective.
21. In my view, the proposed extension is of a neat and well mannered design. I do not share the Department's view that it would appear 'overbearing'. Whilst the extension is not small when compared to the existing dwelling, neither is it overlarge or excessive in its scale and form. The footprint of the resultant dwelling would enlarge by over 50% (the Department quotes 60%) but that is not altogether unusual for a home extension, particularly when much of the ground floor space is intended for garaging. Furthermore, the plot is relatively large in relation to the existing modest sized dwelling house and has the capacity to accommodate an extension without appearing cramped or overdeveloped.
22. The form of the extension reflects that of the existing dwelling and would result in a perpendicular wing of similar height and proportions to the existing house and it would be faced in matching high quality materials. It would be of the same height, roof pitch and detailing as the main house.
23. Whilst it is often good practice to reduce the height of an extension to create a natural subservience (to the main house), this would be difficult in this case. To do so would compromise the proposed internal spaces (and a garage requires minimum dimensions to function) and / or it would require employing a shallower roof pitch, which could appear discordant. In my view, the resultant 'L' shaped building would be of a neat and coherent design and would not be out of character in this rural area.
24. In terms of wider impacts, I am satisfied that there would be no undue impacts on inward and outward views and that there would be an acceptable relationship with surrounding built form, topography and landscape.

Compliance with Policy NE 7 (Green Zone)

25. 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), which may be allowed subject to compliance with four criteria. These are a) that the proposal must be of an appropriate design; b) ensuring the proposal does not facilitate 'significant increased

³ 'Better by design' is the heading used in Policy SP 7

⁴ Policy Note 6 : A Minimum Specification for New Housing Developments (February 1994 and January 2009)

occupancy'; c) that a separate household is not created and d) ensuring that the scheme does not 'seriously harm landscape character'.

26. My assessment above (under Policies GD 7, SP 7 and BE 6) confirms my view that the design is appropriate relative to the existing building and its context and therefore satisfies Criterion a). Criterion b) is satisfied as I do not consider that the scale and nature of the proposal could be judged to facilitate significant increased occupancy. However, should the Minister allow this appeal, I do consider that it would be prudent to prevent, by Planning condition, the future conversion of the garage space to living accommodation to limit the scope for further occupancy increases. Criterion c) does not apply in this case. I am satisfied that the final criterion, relating to landscape impact, is met, as the development is domestic in scale and sited in a relatively discrete part of the plot and will not appear prominent in wider views. It will certainly not breach the Policy's 'seriously harm' threshold of the wider landscape character.

Other Matters

27. Both the Department and the Appellant have made references to the site's Planning history. Beyond the summary facts concerning the permission for the house itself (in 2009) and a refused extension scheme (in 2010), I have not been presented with any greater detail. I have made my assessment on the basis of the facts before me. I do not consider that there are any substantive Planning reasons that would limit the scope for this dwelling to be appropriately extended to any greater extent than any other located within the Green Zone. The key consideration is the application of the prevailing policies today and making informed professional judgements within that policy framework.

Conclusions and recommendation

28. Overall, I consider that the proposed extension is acceptable in Planning terms and accords with the Island Plan, most notably in terms of its Policies GD 7, SP 7, BE 6 and NE 7.
29. Accordingly, I recommend that the Minister **ALLOWS** this appeal and grants planning permission for the proposal subject to the conditions set out in the Appendix to this report.

P. Staddon

Mr Philip Staddon BSc, Dip, MBA, MRTPI

APPENDIX to Inspector's Report - P/2017/1665

Recommended Planning conditions in the event that the Minister allows this appeal.

1. The development shall commence within five years from the date of this decision.
2. The development shall be carried out in full accordance with the approved plans.
3. The external walls of the extension shall be faced with granite to match the walls of the existing house in all respects, including colour, size of blocks, and the colour and style of pointing. The roof covering shall be in natural slates to match the roof covering on the existing house.
4. Notwithstanding the provisions of the Planning and Building (General development) Order 2006 or any Order revoking or re-enacting that Order, the proposed double garage shall not be converted for use as bedroom space, or otherwise occupied as habitable accommodation, without the prior approval of the Department of the Environment.