

REPORT TO MINISTER FOR PLANNING AND ENVIRONMENT

Site visit made on 20th May 2019

by N McGurk BSc (Hons) MCD MBA MRTPI

Appeal 1 Reference: P/2018/0309

Canada Cottage, La Grand Route de Rozel, St. Martin, JE3 6AP

- The appeal is made under Article 108 and 110 of Planning and Building (Jersey) Law 2002 (as amended) against the granting of permission to develop land.
 - The appeal is made by Mr and Mrs G De Sousa against the decision of the States of Jersey. The appellants live within 50 metres of the appeal site.
 - The application Ref P/2018/1026 by Mr R Killen, dated 17 July 2018, was approved by notice dated 7 March 2018.
 - The application granted permission is "Convert and extend existing outbuilding to create 1 No. one bed residential unit. Construct extension to South-West of main house. Various external alterations. REVIEW REQUEST of refusal of planning permission."
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Appeal 2 Reference: P/2018/1758

Canada Cottage, La Grand Route de Rozel, St. Martin, JE3 6AP

- The appeal is made under Article 108 and 110 of Planning and Building (Jersey) Law 2002 (as amended) against the granting of permission to develop land
 - The appeal is made by Mr and Mrs G De Sousa against the decision of the States of Jersey. The appellants live within 50 metres of the appeal site.
 - The application Ref P/2018/1758 by Mr R Killen, dated 6 March 2018, was approved by notice dated 21 February 2019.
 - The application granted permission is "Construct two storey extension to South-West elevation of main house. Various external alterations."
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Recommendation

1. In respect of Appeal 1, I recommend that the appeal be upheld and planning permission be refused.
 2. In respect of Appeal 2, I recommend that the appeal be dismissed and that the original planning permission be upheld, subject to conditions.
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Procedural Matters

3. The two appeals, Appeal 1 and Appeal 2, relate to two similar applications at the same property, Canada Cottage. Given the similarities, it is appropriate to consider the two appeals together.
4. Appeal 1 relates to an application to extend Canada Cottage, a single storey detached dwelling with rooms at roof level, and to convert and extend an outbuilding to provide a 1-bed residential unit.
5. Appeal 2 relates to an application to extend Canada Cottage only.
6. Both proposals seek amended vehicle access and parking arrangements for Canada Cottage. The significant point of difference between the two applications is therefore the proposed conversion/extension of an outbuilding to create a 1-bed residential unit.
7. The application relating to Appeal 1 was originally refused and was then the subject of a Review, and subsequently approved by the Planning Committee. This is referred to in the description of the development proposed, above.
8. I have taken the description of development for Appeal 2 from the Decision Notice. This is more detailed than that on the application form, which describes the development proposed as "*Construct extension to south west of main house. Various external alterations.*"
9. Other than the planning applications associated with these appeals, the appeal site has no significant planning history.
10. Whilst the appellants have raised concerns in respect of the application form and the application process, I am satisfied that there is nothing in respect of these matters that has caused or causes prejudice to the position of the appellants in respect of these appeals. In this regard, I am mindful that there is substantive evidence to demonstrate that the consideration and determination of the planning applications the subject of these appeals has followed an appropriately robust process.
11. Notwithstanding the above, my decisions in respect of these appeals have been made on the basis of land use planning matters. Any legal disagreements between the appellants and the applicant, or between the appellants and the States of Jersey, are a matter between those parties.
12. Further, whilst the appellants state that the applicant has "*flouted*" Jersey Wildlife Law, I am not aware of any legal or enforcement actions being pursued in this regard and in reaching my decisions below, I have had regard to the requirements of the Island Plan¹ in respect of species protection. The applicant has provided the requisite ecological information to the satisfaction of the Department and there is no substantive information before me to demonstrate that either of the proposed developments fail to meet or comply with the requirements of Island Plan Policy NE2 ("*Species Protection*").
13. One of the grounds of appeal put forward by the appellants concerns the disposal of surface water. In this respect, the applicant has provided

¹ Revised 2011 Island Plan (2014).

information that addresses this concern to the satisfaction of the Department and there is no substantive information before me to demonstrate that surface water cannot be disposed of in an appropriate manner.

14. Part of one of the appellants' appeals was made on the grounds that the proposal the subject of Appeal 1 would result in harm to a Listed Building and/or its setting. However, it was established at the public hearing that Canada Cottage is not a Listed Building.
15. I note that, following the public hearing, the applicant has suggested that, in respect of Appeal 1, the description of development could be altered to "Convert and extend existing outbuilding to create 1 No. one bed residential unit ancillary to Canada Cottage. Construct extension to South-West of main house. Various external alterations."

Main Issues

16. Each of the main issues in respect of Appeal 2 also apply to Appeal 1. Thus, for each appeal, the main issues comprise: the effects of the proposed development on the living conditions of the occupiers of Catherine House, with regards to noise and disturbance; and the effect of the proposal on highway safety.
17. In addition to each of those issues set out above², the main issues in respect of Appeal 1 also include the effect of the proposed development on the living conditions of the occupiers of Catherine House, with regards to privacy and outlook; and whether the living conditions of future occupiers would be acceptable, with respect to privacy and outlook, and internal and outdoor space.
18. Essentially, the main issues relate to living conditions and highway safety. In addressing the main issues below, I refer to Appeal 1 and Appeal 2, as appropriate.

Reasons

Living Conditions – Occupiers of Catherine House

19. The appeal property, Canada Cottage, is a residential building of special historical interest located along the Grande Route de Rozel opposite the graveyard of Saint Martin's Parish Church and adjacent to the Grande Route de Rozel's junction with La Chasse des Demoiselles Bandinel.
20. The appeal property is located in a residential area, albeit the countryside location of St Martin's means that fields, trees and greenery are common characteristics of the area. To one side, the property itself is attached to a single storey element of Catherine House, a tall, Listed townhouse. To the other side of Canada Cottage is La Chasse des Demoiselles Bandinel.
21. In effect, the appeal property forms the last dwelling in a line of houses fronting the Grande Route de Rozel. To the rear of these houses is an access lane, itself

² With regards to highway safety, the appellants raised an additional issue in respect of Appeal 1, relating to "an increase in traffic" at "a substandard junction." This is a matter considered under Highway Safety in addition to the consideration of "substandard access and parking and turning arrangements" - a matter that, in the appellants' view, applies to both appeals.

accessed from La Chasse des Demoiselles Bandinel. This provides access to a small terrace of dwellings, as well as to outbuildings and parking areas.

22. Canada House is a single storey dwelling dating from the mid-19th century. It has a pitched slate roof, with a later dormer and retains a number of attractive period features including attractive chimneys, windows and bays. The dwelling is set back from the Grande Route de Rozel behind a garden, which also extends to the side of the dwelling adjacent to La Chasse des Demoiselles Bandinel. To the rear of the dwelling there is a courtyard area and this separates the dwelling from outbuildings along the rear boundary of the property, along with a narrow vehicular access to the lane running behind the property.
23. Also to the rear, a wall separates the appeal property from the adjacent neighbouring garden of Catherine House. During my site visit, I observed there to be a small area of planting and a small parking area between the front of Catherine House and the Grande Route de Rozel. The garden to the rear of Catherine House, whilst not especially large, is more substantial in size than the area to the front. Rear facing windows from main living areas, as well as from the main stairwell and bedrooms within Catherine House look directly out onto the rear garden, which is accessed directly from the rear elevation of the property.
24. In observing the appeal site from Catherine House, I noted that the windows and access from the rear elevation provide a very clear view of the front of Canada Cottage's outbuildings. Given this and the short distance between the rear elevation of Catherine House and the front elevation of Canada Cottage's outbuilding closest to Catherine House, there is considerable scope for direct overlooking between the buildings, although currently, the outbuildings to the rear of Canada Cottage appear as simple garden outbuildings and do not draw undue attention to themselves.
25. Appeal 1 relates to an application that would include the conversion and extension of Canada Cottage's outbuilding closest to Catherine House to form a one bedroomed residential unit. Amongst other works, including demolition and the widening of the access, this would involve enlarging the height and the width of the outbuilding. The ridge of the building would be raised in order to provide for a first storey bedroom and the front elevation would project further forward, closer to the rear elevation of Canada Cottage.
26. Facing to the front (towards the rear elevation of Canada Cottage), there would be three ground floor windows together with the only door providing access and egress from the proposed unit. The three front-facing ground floor windows would comprise the only ground floor windows. Two of these windows would serve the main living area of the proposed unit. Two rear-facing dormer windows would serve the proposed first floor bedroom.
27. As a consequence of the above, the proposed works to the outbuilding would be substantial and would, I find, result in a significant change to its appearance and nature. Rather than appear as a simple and somewhat modest ancillary structure in keeping with a rear garden area, the outbuilding would be substantially enlarged and would take on a more domestic form.

28. As a residential unit, it would be normal and expected for the proposed unit to be in use at any time of night and day. The only windows serving the main living area are likely to be lit during hours of darkness and there is likely to be significant activity – related to normal comings and goings – via the only door to the unit. Thus, I consider that the front elevation of the proposed unit would comprise an active domestic frontage.
29. This would have significant implications in respect of the relationship between the outbuilding and Catherine House. The increase in the size of the outbuilding, combined with its projection even closer to Catherine House, would, I find, result in the proposed unit appearing much more prominently in the outlook from the rear of the neighbouring property.
30. The harm arising from this would be exacerbated as a result of that part of the proposed unit facing towards Catherine House comprising the development's active frontage. Activity associated with domestic comings and goings, to and from the proposed unit, as well as domestic activities relating to its main living area would be visible, in close proximity, from the rear windows of and rear access from, Catherine House.
31. In the same way, the only ground floor windows serving the proposed unit's main living area would face towards the rear windows of Catherine House. The access door to and from the proposed unit would also face towards Catherine House. Everyday activities, such as entering and leaving the unit in a vehicle, walking from the unit to Canada Cottage or walking to the proposed amenity area for the unit (proposed to be to the front and side of Canada Cottage), would all involve movements across or within an area with a clear view of and in close proximity to, the rear windows of Catherine House. This would impact on the privacy of the occupiers of Catherine House and conversely, on the privacy of occupiers of the proposed unit.
32. Taking all of the above into account, I find that the proposed conversion of the outbuilding to a residential unit would result in significant harm to the privacy and the perception of privacy currently enjoyed by the occupiers of Catherine House; and that there would be an unacceptable impact on the living conditions of the future occupiers of the proposed unit, in respect of privacy. In addition, I find that there would be harm to the living conditions of the occupiers of Catherine House in respect of outlook, whereby the proposed unit would draw attention to itself as a substantial residential property where the focus of domestic activity would take place in view of and in close proximity to, Catherine House.
33. In relation to the above, I also find that the proposed conversion of the outbuilding would run the risk of introducing significant harm from noise and disturbance associated with all of the normal comings and goings that might be expected from a domestic property, over and above those associated with Canada Cottage.
34. Currently, the outbuilding is simply an ancillary garden building. The proposed changes described would effectively create a residential frontage facing and in close proximity to, the rear elevation of Catherine House. As above many of the everyday activities one might associate with a residential unit would be focused

on this frontage – not least due to the location of the only access and main living area windows – and the parking area immediately adjacent to it.

35. Noise and disturbance associated with general movements into and out of the proposed unit, whether by foot or by vehicle, would take place within very close proximity of the rear of Catherine House. Similarly, noise emanating from times when the main living area windows of the proposed unit may be open, may also be heard by occupiers of Catherine House, including at times when they may be expected to be able to enjoy the peace and tranquillity offered by their garden. Noise arising from the domestic use of the proposed unit would, as above, be over and above that associated with Canada Cottage.
36. Taking everything into account, I consider that the harm arising from the above would amount to something so significant as to be unreasonable and in this way, the proposed unit would fail to meet the test of reasonableness set out in Island Plan Policy GD1 (*General Development Considerations*).
37. In respect of Appeal 2, the proposal would provide for car parking spaces to the rear of Canada Cottage. Whilst this would result in the scope for car parking adjacent to Catherine House's rear garden, it would simply provide for car parking requirements associated with Canada Cottage. It is neither unusual nor uncommon for domestic car parking to be within or adjacent to a garden area. Whilst I find, above, that the impact of an additional residential unit would result in unreasonable harm, in part in respect of noise and disturbance, I am satisfied that the domestic parking arrangements proposed for Canada Cottage would provide for appropriate off-street parking and would not give rise to unreasonable harm in respect of noise and disturbance.
38. Returning to Appeal 1, the proposed residential unit would have relatively small internal dimensions. Providing for an internal stairway effectively removes useable space from the main living area which itself, in providing for an entrance doorway, and a kitchen and living area, would appear to comprise rather cramped living conditions. In addition, I am mindful that useable space within the first floor bedroom accommodation would be compromised by the doorway opening from the landing and by the restricted headroom resulting from ridge height and pitch of the roof. I also note that the ground floor, with windows to just one elevation, would only receive daylight from the north-west.
39. Taken as a whole, the living accommodation in the proposed unit would be cramped and it seems to me that this would be likely to place greater emphasis on access to the and use of, outside space. However, as designed, the proposed unit would rely upon amenity space located to the front and side of Canada Cottage, rather than adjacent to the unit itself.
40. The proposed unit's front door would open out directly onto a parking space and there would be no adjacent amenity space. Further, cars entering and exiting the site would do so in immediately proximity to the proposed unit and would be likely to manoeuvre very close to it. I find that this would result in a poor quality external environment adjacent to the proposed unit.
41. Taking all of the above into account, whilst it was established at the public hearing that there are no specific space standards for the type of residential unit proposed, I find that the living conditions of future occupiers would be compromised in respect of internal living space and that the adjacent external

environment would be of poor quality. Whilst these factors alone are not so significant as to warrant refusal of the planning application, I consider them to be so material as to add weight to my decision below.

42. Taking all of the above into account, in respect of Appeal 1, I find that the proposed development would harm the living conditions of the occupiers of Catherine House, with regards to privacy, outlook, and noise and disturbance; and that it would result in unacceptable living conditions for future occupiers, in respect of privacy and outlook. This would be contrary to Island Plan Policy GD1, which amongst other things, seeks to protect residential amenity from unreasonable harm. In addition, I find that the proposal would fail to comprise high quality development, contrary to Island Plan Policy GD1 and by implication, Policies GD7 ("*Design quality*") and SP7 ("*Better by design*").
43. In respect of Appeal 2, I find that the proposed development would not harm the living conditions of neighbouring occupiers, with regards to noise and disturbance and is not contrary to Island Plan Policy GD1, which amongst other things, protects residential amenity.

Highway Safety

44. The proposed development associated with both Appeals involves an alteration to the access to the rear of the appeal site. During my site visit, I observed that there is currently a small vehicular access to the rear of the site. It is proposed to widen this access, providing for access to parking space to the rear of Canada Cottage.
45. I find that the proposed access arrangements would provide for off-street parking and result in an improvement to the existing situation. Whilst the proposal may require some degree of manoeuvring, especially for larger vehicles, this would take place in a location close to La Chasse des Demoiselles Bandinel, a lane where cars should, in any case, be making slow and careful progress, and along an access road, itself characterised by the presence of garages and parking areas where cars manoeuvre.
46. There is no substantive evidence before me to demonstrate that this factor would result in harm to highway safety in respect of either of the proposed developments and I am also mindful that the Department has not expressed any significant concerns in this regard.
47. The appellant considers that the proposal relating to Appeal 1 would result in harm to highway safety as a result of the intensification of the use of La Grande Route de Rozel's junction with La Chasse des Demoiselles Bandinel. I note that the creation of an additional residential unit may result in additional vehicle movements associated with a junction with inadequate visibility splays. In this regard I find that the additional impact that is likely to arise from the creation of a one bed residential unit on of the use of a junction already relied upon by cars from many neighbouring properties, as well as used by other highway users, is likely to be negligible.
48. I also note that, in reaching the decision that it did, the States of Jersey Planning Committee was satisfied that this was not a matter of such concern as to warrant refusal of the application relating to Appeal 1.

49. Taking the above into account, I find that the proposed developments relating to Appeals 1 and 2 would not harm highway safety and would not be contrary to Island Plan Policy TT5 (“Road safety”), which seeks to secure the safety of the Island’s road network. However, the absence of harm in respect of highway safety does not mitigate or reduce the impact of the harm identified earlier in this Report.

Other Matters

50. Whilst not a Listed Building, Canada Cottage is of historic value. It is included on the States of Jersey’s Schedule of special interest³. In this regard, I am mindful that Condition 1 originally imposed on the planning permission the subject of Appeal 2 takes into account representations made by the Historical Environment Team. Conditions are considered below.

Conditions

51. In granting planning permission for Appeal 2, the Department imposed four planning conditions. These comprised the Department’s standard conditions, A and B, which relate to setting a three year time limit for implementation and for requiring compliance with submitted details.

52. The Department also imposed a materials condition, to ensure that special regard is paid to the interest of protecting architectural and historical interest; and a condition requiring an ecological assessment, in the interest of protecting all protected species.

53. Whilst the appellant has requested the raising of the height of the party wall between Catherine House and the appeal site, I find that this would be unnecessary in respect of Appeal 2 and there is no substantive evidence before me to the contrary. Consequently, such a condition would fail to meet the test of being necessary.

Conclusion

54. For the reasons given above, I recommend to the Minister that in respect of Appeal 1, the appeal be upheld and planning permission be refused.

55. In respect of Appeal 2, I recommend that the appeal be dismissed and that the original planning permission be upheld, subject to the conditions imposed on the planning permission dated 21 February 2019.

N McGurk

INSPECTOR

³ Ref: HER Reference MN0359.