

PLANNING AND BUILDING (JERSEY) LAW 2002 (AS AMENDED)

Appeal under Article 108 (2) (a) against a decision to grant planning permission

Report to the Minister for the Environment

By Sue Bell MSc., BSc, FCIEEM, CEng, CWEM,
An Inspector appointed under Article 107

Appellant: Mrs Kate Smith

Planning Permission Reference Number: P/2019/0967

Decision notice date: 31st October 2019

Location: Pre L'Abri, Le Mont Rossignol, St. Ouen, JE3 2LN

Description of Development: Construct two storey extension to North-West elevation.

Appeal Procedure: Site Inspection & review of written submissions

Site Visit procedure and Date: Accompanied, 2nd March 2020

Date of Report: 20 March 2020

Procedural Note

1. Article 114 of the Planning and Building (Jersey) Law 2002 sets out procedures to be applied to appeals. Appeals under Article 108 (2)(a) are generally to be determined by way of an appeal hearing, although paragraph (5) of Article 114 allows them to be dealt with by way of written representations on the application of any party and following consultation with all parties.
2. The appellant requested that this appeal be dealt with by way of written representations and I therefore asked all parties¹ to submit their views on this. All parties confirmed that they were content that the appeal proceed on the basis of written representations². Therefore, my report is based on the written documentation submitted during the application and the appeal and on my observations during the site inspection.
3. Prior to consultation about the appeal procedures, the applicant had asked whether it was possible to submit further written information in response to material provided by the appellant. As this would have been received after the cut-off date for receipt of written material and at the time it was anticipated that a hearing would be held, this was declined. However, following confirmation that the appeal would be considered by way of written material only, the applicant was asked if he still wished to submit further written information. He confirmed (email 25th February 2020) that he did not wish to do so.

¹ Email from Tribunals Manager to all parties dated 10th February, 2020

² Emails from appellant dated 10 February, GHE Department dated 11 February and applicant dated 13 February.

Introduction

4. Permission for the proposed development was granted under delegated powers by Decision Notice dated 31st October 2019. It was accompanied by two standard conditions relating to the period within which development should be commenced and a requirement that development should be in accordance with the stated plans.
5. A summary of the cases presented by the appellant, the Growth, Housing and Environment Department and the applicant both during the application and the appeal are presented below. Further details are available in the statements and other documents submitted by each party, which are available through the Planning Applications Register website.

The appeal site and surroundings

6. The appeal site forms one of a cluster of buildings located to the east side of Le Mont Rossignol, from which it is accessed. It comprises a granite, residential property created from conversion of a former farm building. To the east sits L' Abri, which is included on the register of listed buildings (Grade 3). There is a granite 'garage block' immediately to the south and perpendicular to the proposed development site.
7. Hill Farm, a collection of converted farm buildings, which is included on the register of listed buildings (Grade 4) sits to the north and west of the proposed development site. The northern wall of the appeal property forms part of the boundary with Hill Farm to the north.

The proposed development

8. The proposal is to construct a roughly L-shaped extension, comprising two elements. The first section would comprise a two-storey extension, which would extend the north-west elevation of the property westwards to the boundary with Hill Farm. The western and northern walls of the extension would be formed by increasing the height of the existing boundary walls. The extension would have a pitched roof to match the existing, although the ridge height would be at a lower level.
9. The second section would comprise a single-storey flat roof extension, perpendicular to the host building. It would infill the space between the new extension and the adjoining garage block to the south.
10. A mixed palette of materials are proposed. The north-western gable of the proposed extension would be rendered to match the existing boundary wall.

Case for the appellant

11. The appellant has stated three grounds of appeal, which in broad terms relate to:
 - the effects of the proposal on the setting and special character of Hill Farm, which is included on the register of Listed Buildings;
 - the maintenance requirements of the boundary features; and
 - effects on neighbouring amenity.
12. In addition, the appellant has raised concerns about the accuracy of the information supporting the application.

13. The appellant considers that the proposed extension would be harmful to the setting of the listed Hill Farm, contrary to the requirements of Policy HE1 - Protecting Listed buildings and places of the Island Plan and other policies which also seek to protect the Island's environment including SP4 - Protecting the natural and historic environment and Policy GD1 - General development considerations (paragraph 2).
14. The impacts would arise as a result of the arrangement and configuration of buildings. The granite boundary walls and slate roofs of Pre L'Abri provide the immediate backdrop and are a dominant part of the setting of Hill Farm. Any change to these would have an immediate impact on the setting of Hill Farm. The appellants are also concerned about the position of the extension in relation to the boundary wall and the proposed ridge height, suggesting it would be better if the building were set back within the boundary wall and the ridge were at the same height as the adjacent garage.
15. In relation to the maintenance of boundary features, the proposal allows for a render finish of a wall which lies between Hill Farm and the appeal property. The appellant is concerned that such a finish would require regular maintenance, which could not be achieved without access over land belonging to Hill Farm. They consider that if the finish is not maintained to a high standard, its appearance would be harmful to the setting of Hill Farm contrary to Policy HE1 and other policies which require protection of the historic environment of the Island.
16. Thirdly, the appellant is concerned that the proposal would result in an increased floor plan capable of accommodating an increased number of people and that it would bring development and activity closer to their property to the detriment of their amenity, contrary to the requirements of Policy GD1 of the Island Plan.
17. In their statement of case, the appellant has also raised concerns about the submitted information, suggesting that it does not accurately reflect the buildings and arrangement of buildings, particularly the boundary features, that exist on site. The appellant considers there is a lack of clarity about whether the proposal includes building off the existing boundary wall or building behind the wall. In light of this, the appellant does not consider that the decision can have properly taken into account the impact of the proposed development upon the amenities of neighbours and the setting of Hill Farm.

Case for the Growth, Housing and Environment Committee ("the Department")

18. The Department's analysis of the application is presented in its Application Assessment Sheet.
19. The proposal is located within the Green Zone, where policy NE7 applies. This requires "*a high level of protection*" and "*a general presumption against all forms of development.*" The policy allows for a limited number of permissible exceptions. These include the extension of a dwelling, subject to compliance with the prescribed policy criteria relating to (1a) design, (1b) occupancy and (1d) harm to landscape character. Criterion 1(c), which relates to proposals that would create a separate household, is not relevant in this context.
20. In relation to (1a) design, the Department considers that the pitched roof form to the extension and traditional palette of materials are consistent with the host dwelling and its built context. It considers the flat roof section is intentionally

different and subservient to both the barn and the garage. Accordingly, the design is considered to be appropriate to the existing buildings and its context.

21. In relation to (1b) occupancy, whilst the proposals would result in increased floor space, an increase in occupancy is not considered likely. The proposals are considered to strike an appropriate balance between the reasonable expectations of the owners and the capacity of the site to accommodate development.
22. In relation to (1d) landscape character, the site and neighbouring land uses are clearly residential. Any perceived impact, if any, is likely to be small by virtue of the small scale of the extension, its situation and largely concealed position. Any impact upon the landscape character of the Green Zone is assessed as minimal.
23. Overall, the proposals are considered to satisfy the relevant tests under Green Zone Policy NE7.
24. The application site is not listed, but sits adjacent to Hill Farm and L'Abri, which are both listed. The test set by Policy HE1 is to "*preserve or enhance*" the special interest of listed buildings and their settings. The proposals are considered to satisfy the requirements of Policy HE1.
25. The proposed extension, is not considered to change the tight knit arrangement of the group of buildings which lie in close proximity to each other, nor alter the relationship between Pre L'Abri and Hill Farm. Thus, the special interests of Hill Farm, which lies in its form, historic character and its streetscape value would remain preserved, intact.
26. The setting of L'Abri, as part of a collection buildings within a small settlement, is considered to be preserved as the proposed works would be largely concealed by the mass of the existing building.
27. The Department does not consider that the use of render on the north-western gable would have a harmful effect upon the setting of the listed Hill Farm group of buildings. It accepts that any maintenance may require access to the appellant's property, but provided the appellant is prepared to grant access there is no reason to believe that this gable would not be maintained as well as the walls and buildings that are present within the appeal site. The existing boundary wall is already rendered.
28. Given the minor scale of proposed development, which is to provide ancillary accommodation to an existing dwelling and the restricted number and nature of the openings to the north (a single roof light), it is considered that the relationship between the respective sites would remain largely unchanged. In addition, the area immediately adjacent to the proposed extension is used as a car parking space and the main habitable part of the adjacent buildings and the private garden area are not immediately adjacent to the proposed extensions. The perceived impact, if any, is not considered to be so significant as to cause "*unreasonable*" harm. It is therefore considered to meet the requirements of policy GD1 paragraph 3.

Case for the Applicant

29. The applicant notes that the materials that were used to construct the original cottage are no longer available. The proposed render with an appropriate paint finish would match Hill Farm main dwelling, which has recently been finished with

an identical paint finish. If there are concerns about access for maintenance, it would be possible to leave the rendered finish as a natural colour and use a clear epoxy sealer coating. This would not require maintenance and would match the roadside elevation of Hill Farm dwelling and Pre L'Abri's boundary wall.

30. Consideration could be given to working hours to reduce disturbance to neighbours during construction.

Consultation Responses

31. The response from the Historic Environment Team (13/08/2019) did not object to the proposal. It did, however, note that the two-storey extension would impact the setting of Hill Farm in that it would be closer and higher than the adjacent listed barns directly to the north-east and west. The response noted that this impact could be managed by lowering the ridge of the proposed extension to match the garage ridge and be set in as shown on the plans but not the elevations.

Representations

32. A single representation was received. This was submitted by the appellant and raised similar issues to those set out in the appellant's grounds of appeal.

Policy assessment

33. A brief assessment of the relevant policies referred to by the Department and the appellant in their submissions is provided below.
34. Policy NE7 - Green Zone provides for a general presumption against all forms of development within the Green Zone. Some exceptions are permissible, but only where they do not cause serious harm to landscape character. These exceptions allow for (a) the extension of a building providing that its design is appropriate relative to existing buildings and its context; (b) it does not facilitate significant increased occupancy; and (d) it does not seriously harm landscape character. Additional criteria apply where the extension would lead to the creation of a separate household.
35. Policy GD1 sets out general development considerations that will apply to all developments. Paragraph 2 of the policy requires that proposals do not seriously harm the Island's natural and historic environment, in accord with Policy SP4 - Protecting the natural and historic environment and that developments will not have an unreasonable impact on the character of the coast and countryside or heritage assets.
36. Paragraph 3 of the policy addresses effects on neighbouring amenity. It requires that proposals should not unreasonably harm the amenities of neighbouring uses, including the living conditions for nearby residents.
37. Policy SP4 - Protecting the natural and historic environment - places a high priority on the protection of the Island's natural and historic environment. The protection of the Island's heritage assets will be key material considerations in the determination of planning applications.
38. Further guidance on the protection of the historic environment is provided through policy HE1 - Protecting Listed buildings and places. This states that proposals that do not preserve or enhance the special or particular interest of a Listed building or

place and their settings will not be approved. In particular, paragraph 4 notes that permission will not be granted for extensions, alterations and changes which would adversely affect the architectural or historic character of a Listed building or place, and its setting.

Inspector's assessment and analysis of the issues

39. Based on the written documentation and my site inspection, I conclude that the main issues in this appeal are:
- the extent to which the proposals accord with the requirements of Policy NE7 Green Zone of the Adopted Island Plan 2011 (revised 2014);
 - the extent to which the proposals accord with the requirements of Policies SP4, GD1 (paragraph 2) and HE1 of the Adopted Island Plan 2011 (revised 2014), in relation to effects on the setting of listed buildings;
 - the extent to which the proposals accord with the requirements of Policy GD1 paragraph 3 of the Adopted Island Plan 2011 (revised 2014) in relation to effects on neighbouring amenity.

The extent to which the proposals accord with the requirements of Policy NE7 Green Zone of the Adopted Island Plan 2011 (revised 2014)

40. The appellant has not questioned whether or not the proposal meets the criteria for development within the Green Zone. Nevertheless, this is an important element in understanding the extent to which the proposals meet the overall requirements of the Adopted Island Plan 2011 (revised 2014).
41. The proposal is for an extension to an existing building. The design of the western extension is consistent with the style and design of the host building. The single-storey extension to the south is different in character and style. Nevertheless, I consider that its scale and design would be appropriate in this setting, providing a clear distinction between the original buildings and the new extension.
42. The proposed development allows for an expansion of existing facilities in terms of increasing the area of the lounge and provision of a dressing room and *ensuite* to the existing bedroom. In that respect I do not consider that it would facilitate a significant increase in occupancy.
43. The appeal site is characterised by residential buildings in close proximity to each other in a location that is clearly residential in nature. Consequently, I conclude that the proposals would not result in serious harm to landscape character.
44. Overall, I conclude that the proposal would satisfy the requirements of Policy NE7.

The extent to which the proposals accord with the requirements of Policies SP4, GD1 (paragraph 2) and HE1 of the Adopted Island Plan 2011 (revised 2014) in relation to effects on the setting of listed buildings

45. The property to be extended is not a listed building, but there are two listed buildings within the vicinity of the proposed development (L' Abri and Hill Farm) that require to be assessed in terms of the effects of the proposals upon their settings.
46. The proposed development would be relatively small, and situated to the west of the existing building. Consequently, much of the proposed development would be largely obscured from L' Abri.

47. The single-storey flat roof extension would be clearly different in character to the host building but given its scale, would appear subservient to the adjoining buildings. I find that its position and subservient character would not detract from an appreciation of the original courtyard layout and hence an understanding of the setting of L' Abri as part of a collection of buildings within a small settlement.
48. In considering the effects of the proposed development on Hill Farm, I note that the response from the Historic Environment Team was for 'More Info' and did not expressly object to the proposal.
49. The complex of buildings comprising Hill Farm lies to the west and north of the proposed development site. The special interest of the listed buildings is described as 'architectural, historical'. The schedule specifies the statement of significance as "*This large C19 farm complex retains its form and historic character along with the outbuildings, of rural streetscape value*".
50. I observed that the existing close relationship between Pre L' Abri and buildings that form part of the Hill Farm group. Whilst the proposal would result in an extension of the ridge line, it would not alter the arrangement of buildings and the spatial relationship between Hill Farm and Pre L' Abri. Nor would it affect the form, historic character and streetscape value that contributes to the significance of Hill Farm.
51. The appellant has raised concerns about the use of render on the proposed western gable and how this would be maintained.
52. The existing gable is granite. However, I observed other examples of white render in the immediate area, including on Hill Farm. The western boundary wall, which would form part of the new gable, is also rendered. I therefore consider that render is an acceptable design material in this context and would not detract from the setting of the listed buildings.
53. In relation to maintenance, there is no evidence to suggest that the render would not be maintained to a high standard. I accept that this may require access from the appellant's property, which would require agreement between parties. However, that would not be a reason to refuse an otherwise acceptable proposal.
54. Given that the overall arrangement of buildings and their special interest would remain unchanged, I find that the setting of the listed buildings would be preserved. Consequently, I conclude that the requirements of policies HE1 and SP4 would be met in respect of the listed buildings.

The extent to which the proposals accord with the requirements of Policy GD1 paragraph 3 of the Adopted Island Plan 2011 (revised 2014) in relation to effects on neighbouring amenity

55. The test set by Policy GD1 recognises that some change may occur to neighbouring uses as a result of development, but that this must not cause unreasonable harm to the level of amenity, including privacy, that the owner or occupier of a property might expect to enjoy.
56. The proposed development would not result in any new openings in the western gable. There would be a single window in the northern elevation of the pitched roof, which would face the pitched roof of a building within Hill Farm. The single-storey extension would not have any windows facing the neighbouring property. Consequently, I conclude that the proposed development would not result in any overlooking of the neighbouring property.

57. The proposals would allow for an extension of an existing bedroom to create a dressing room and *ensuite* at first floor level. At ground floor they would allow for an extension of an existing lounge. These would not represent a significant change in use of the property or provide for an increase in occupancy. During the site inspection, I noted that the external amenity areas of the adjoining property that would be closest to the proposed extension are used as a parking area. Considering these factors together with the absence of openings towards Hill Farm, I conclude that any alteration to noise or disturbance would be minimal at most and well below the threshold of causing unreasonable harm to neighbouring amenity, which is the test of policy GD1.

Other points raised in submissions

58. The appellant has suggested that there are alternative locations for the proposed development. Whether or not that is the case, I am required to consider the merits of the proposal that is before me.
59. Having undertaken a site inspection, I am content that the plans and information submitted are sufficient for the purposes of fully determining the application.

Inspector's Conclusions

60. Article 19 of the Planning & Building (Jersey) Law 2002 provides that, in general planning permission shall be granted if the development proposed is in accordance with the Island Plan. Article 20 provides that planning permission may also be granted where the proposed development is inconsistent with the Island Plan, if there is sufficient reason for doing so.
61. Based on my assessment set out above, I am satisfied that the proposal meets the criteria for exemption from the general presumption against development in the Green Zone and hence satisfies the requirements of policy NE7 of the Adopted Island Plan 2011 (revised 2014).
62. Whilst the proposals would result in some changes to the setting of listed buildings, for the reasons I set out above, I am satisfied that the special interest of those buildings would be preserved, meeting the requirements of policies SP4 and HE1.
63. For the reasons set out above, I do not consider that the proposals would result in an increase in disturbance or noise for neighbouring properties. Hence the requirements of Policy GD1 paragraph 3 are also met.
64. In conclusion, I find that the proposal would be in accordance with the requirements of the Adopted Island Plan 2011 (revised 2014).

Recommendation

65. I recommend that the appeal should be dismissed and that planning permission should be granted, with the two general conditions that were applied to the original decision.

Sue Bell

Inspector 20/03/2020