

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, CECOL, CWEM,
An Inspector appointed under Article 107

Appellant: Emily & Jason A'Court

Planning Permission Reference Number: P/2019/0674

Decision notice date: 19 December 2019

Location: Chestnut House, La Grande Route de St. Pierre, St. Peter, JE3 7AY

Description of Development: Demolish existing dwelling and site structures. Construct 7 No. four bed dwellings with associated parking and landscaping.

Appeal Procedure: Accompanied site inspection 2 March 2020 and Hearing held 3rd March 2020

Date of Report: 6 April 2020

Procedural Note

1. The applicant indicated that they would be unavailable to attend the site inspection and hearing, but did not ask for these events to be either delayed or suspended, nor did they nominate someone to represent them. However, they provided some further written comments in lieu of their attendance.
2. As the site inspection necessitated entry onto private land, prior confirmation was sought from the applicant for permission to access the appeal site, which was granted. Prior to entering the appeal site, I approached the tenant of Chestnut House, who also granted access, but declined my invitation to participate in the site inspection.
3. Article 115 (4) (3) of The Planning and Building (Jersey) Law 2002 allows an inspector to determine all matters of procedure in respect of a hearing. At the hearing, I sought the views of parties as to whether the hearing should proceed in the absence of the applicant, but relying on their written representations; or whether it should be adjourned until a later date. Based on these discussions, I proceeded with the hearing. All parties were supplied with a copy of the additional comments provided by the applicant, which were treated as their response to each of the relevant points on the agenda.
4. It is highly unusual for a party not to participate in either the site inspection or hearing. Nevertheless, I am satisfied that the applicant has been given a fair opportunity to participate and present their views and that I have adequate material before me on which to base a recommendation to the Minister.

Introduction

5. The Planning Committee granted permission for the proposed development on 19 December 2019, following a recommendation for approval by the Growth, Housing and Environment Department (the 'Department'). The decision was taken by the Planning Committee owing to the number of objections to the proposals. The permission was accompanied by eight conditions: two standard conditions; and six conditions addressing specific aspects of the scheme.
6. A summary of the cases presented by the appellant, the 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

7. The appeal site is located within the settlement of St Peter's village. It sits behind a small group of dwellings located to the south-west of La Grande Route de St. Pierre. The site is roughly linear, with a north-east / south-west orientation. To the north-west and south-west is St Peter's Technical Park. To the east and south-east lie the residential properties of La Grande Piece. The closest dwelling is Cyrano Cottage, which lies to the north, between the existing dwelling and La Grande Route de St. Pierre.
8. The site is accessed from La Grande Route de St Pierre via a private road, which serves four properties. Whilst this access is roughly at grade, the surrounding topography is such that the appeal site is at a lower level than the Technical Park to the north-west and the residential properties to the south and south-east and hence appears sunken.
9. The site is currently occupied by a single dwelling. This comprises the detached property, Chestnut House with integral single garage, and its associated large garden and ancillary structures including a greenhouse.

The proposed development

10. The existing Chestnut House would be demolished and replaced by seven, two-storey dwellings, comprising a single, detached house at the north-east end of the site and six semi-detached houses. Four of these would form a line running north-east to south-west along the site, with the remaining pair perpendicular to these, at the south-west end. Each house would have four bedrooms, a garage and external parking. They would have pitched roofs with natural slate and be finished in white render with cladding on the upper storey. All the semi-detached properties would have accommodation in the roof space.
11. Vehicle access to the new dwellings would be via the entrance to the Technical Park. A landscaped triangle would be constructed to guide traffic exiting the development around the one-way system within the Technical Park. Works would also be required to improve the visibility splay for the exit from the Technical Park. Construction of a bus shelter and linking footpath is also proposed.

Case for the appellant

12. The appellant has raised a number of objections to the scheme:

- Overbearing development of land;
 - Safety, security and privacy of existing residents;
 - Additional traffic and parking issues within La Grande Piece;
 - Access to La Grande Piece from the development;
 - Environmental impact including loss of trees.
13. In addition, the appellant has raised concerns about the representation of boundaries on the application; failure to obtain landowner's permission to access land to take photographs to accompany the application; and the way in which consultations have been undertaken or responses interpreted.
 14. The appellant considers that the replacement of one dwelling by seven three-storey, four-bedroom dwellings and the associated increase in occupancy and traffic, represents overdevelopment of the site. Whilst the proposal ticks the boxes from a technical perspective, when looked at as a whole it represents a complete overdevelopment. The Developer's wish to maximise profits should not be to the detriment of others.
 15. The applicant's planning statement states "*there are design limitations to the site, given that it is narrow and only accessible from the shorter northern boundary. This restricts orientation and position of the properties and causes design constraints.*" This sums up the issues with the site and why it is inappropriate for seven dwellings.
 16. The decision to approve this application is inconsistent with the decision to refuse a previous application, given that the number of units has not decreased and the scale and mass of the proposed development is larger than before.
 17. The proposed dwellings would not reflect the scale and form of the closest residential properties on La Grande Piece, which are two-storey three-bedroom terraced properties. The footprints of the proposed development are significantly larger. Statements within the planning statement that the development would be two-storey are factually incorrect as the proposed dwellings would be habitable over three storeys. The height differential between the existing houses and proposed dwelling are negligible and would in no way make any significant difference to the overbearing nature of the development.
 18. The scheme would severely impact on the privacy of neighbouring properties of La Grande Piece. It appears that there would be direct views into ground and first floor windows of La Grande Piece, who in return would be able to look directly into the windows of the proposed houses opposite.
 19. The proposed walkway into La Grande Piece would result in additional foot traffic of adjoining houses, which could lead to additional noise disturbance.
 20. There is also a concern that visitors to the new development, including contractors, would park in La Grande Piece and use the walkway to access the new development. As these are public roads, parking could not be controlled, but this could lead to issues for residents being unable to park or access their driveways and homes. Additional traffic could be a potential danger for children using the area.
 21. There is a gate at the end of the walkway, which previously allowed access from Chestnut House into La Grande Piece. This has not been used for some time and is no longer functional. The new gate would have a security code. To demonstrate

that the development is accessible to existing pedestrians it should be considered that the access be freely available.

22. At least 13 mature trees would be removed for the development including a large fir tree. There is no mention in the planning statement as to whether any of the trees to be removed would be replaced. Loss of trees and building on green space goes against the Government's plans for a greener island.
23. Trees on the boundary belong to land in the ownership of occupants of La Grande Piece and do not form part of the development site and hence must be retained.

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

24. The Planning Committee based its decision to approve the application upon the analysis and subsequent recommendation made by the Growth, Housing and Environment Department. The Department's analysis of the application is presented in its Application Assessment Sheet and is summarised below.
25. Chestnut House is located in the Built-up Area where there is a presumption in favour of development. The dwellings are of good design, use good quality materials, comfortably meet the minimum standards, parking and drainage requirements. They are well sited within the constricted linear site and will not have an unreasonable impact on neighbouring properties.
26. The access into the proposed development uses an existing private road, which will reduce traffic on the current substandard shared access. Traffic exiting will be safely guided around the one-way system to join the main road at a significantly improved access, which includes a fully compliant new nearside visibility splay. This, along with a new bus shelter will not only benefit new residents, but will improve the life of existing users and other residents in the area.
27. Operations and Transport have supported the scheme given its central location, its sustainable transport links and proposed bus shelter along with the significant safety improvements which will therefore help to reduce impact on the highway. It has also shown support for the pedestrian link into La Grande Piece, although an access code will prevent its general use. This will stop visitors to the new development parking at La Grande Piece.
28. Natural Environment has confirmed that the implementation of the mitigation measures within the Initial Ecological Assessment will minimise the negative impacts on wildlife.

Case for the Applicant

29. The applicant's agent agrees with the Department's report. It considers the proposed scheme complies fully with the current policies of the Island Plan and is a major improvement on the previously refused scheme.
30. The proposed scheme is of no higher density than the adjoining estate. The properties are not three storeys, but two storeys with rooms in the roof. Utilising a roof space does not add an extra storey in height to a property. The rooms in the roofs do not have windows overlooking the adjacent estate.

31. The scheme is not overbearing. The eaves heights of the proposed buildings will be approximately 600 mm lower than those of the adjacent estate.
32. The proposed level of parking is adequate to serve the dwellings and there should be no reason for increased parking in La Grande Piece. Parking in the estate is not something that can be controlled by the applicant other than to prevent pedestrian access through to the estate.
33. The pedestrian gate would allow children, in particular, to use footpaths through the estate to get to and from school safely. The pathway within the scheme is private land. There is no reason why the estate residents would need to use the pathway other than as a short cut, which is not a reason to allow access through private property that has never previously been available.
34. The trees on the boundary with the estate to the south-east and south-west would remain. Many of the trees to be removed are not indigenous and will be replaced in gardens and boundary to the Technical Park with indigenous species creating a more sustainable landscape.

Consultation Responses

35. The **Department of the Environment - Environmental Health** has no objections to the proposed development. It noted that there would be some noise associated with the use of the nearby Technical Park, but that to date this had not been deemed as a statutory nuisance. It also noted that anyone choosing to purchase one of the dwellings would also be aware of the presence of the Technical Park and therefore able to make an informed decision.
36. **Department for Infrastructure - Operations Services - Drainage** noted that the public foul sewer has capacity for the proposal. It recommended that the private drainage is fully surveyed and inspected to ensure it has the capacity for any increase in flow. The response also included recommendations in relation to surveys to ensure the feasibility of the proposed SuDS scheme.
37. **Growth, Housing and Environment - Natural Heritage** were satisfied that the Initial Ecological Assessment was sufficient to enable an evaluation of the potential impacts of the application proposals on protected species and habitats. The implementation in full of the mitigation measures within the Initial Ecological Assessment as well as the landscaping compensation measures will ensure that no negative impact is caused to protected species and that habitat is replaced to ensure their continued use of the site upon completion of the development.
38. **Growth, Housing and Environment - Operations and Transport** support the proposals and welcome the new bus shelter. It is content with the proposed entry and exit arrangements, noting that the proposed new nearside visibility splay area would be a significant betterment. It considers the introduction of an access code to prevent general public use of the gate on the footpath to be a missed opportunity to enable a safer route for pedestrians between the shops and La Grande Piece. The provision of residential and visitor car and cycle parking is satisfactory.

Representations

39. Eleven representations were received to the application, which raised the following issues:
 - Increase in traffic in the Technical Park and effects on safety to residents;

- The garage of No. 1, by virtue of its siting, height and proximity may result in overbearing of neighbouring property;
- Loss of trees and wildlife;
- Loss of privacy;
- Pedestrian access will lead to parked cars on neighbouring estate;
- Proposed 2-metre high boundary fences are not high enough;
- Additional noise levels due to increase occupancy and increased traffic on the site;
- The housing will not be affordable;
- Effects of noise and traffic during construction.

Policy assessment

40. A brief assessment of the key relevant policies is provided below.
41. **Policy SP1** sets out the spatial strategy for the Adopted Island Plan 2011 (revised 2014), which directs development towards the Built-up Area.
42. *Inspector's assessment:* The proposal is located within the Built-up Area, within a Main Rural Settlement and hence is consistent with the spatial strategy.
43. **Policy H6 - Housing Development within the Built-up Area** establishes that proposals for new dwellings will be permitted within the boundary of the Built-up Area, as defined on the Island Proposals Map, provided that the proposal is in accordance with the required standards for housing as established and adopted by the Minister through supplementary planning guidance. The current relevant guidance is Planning Policy Note 6 - 'A *minimum Specification for New Housing Developments*' (PPN6). Planning Policy Note 3 - '*Parking Guidelines*' (PPN3) sets out the level of parking required for new developments.
44. *Inspector's analysis:* The appeal site lies within the Built-up Area and the proposed dwellings meet the minimum specifications set out in PPN6 and PPN3. Therefore, subject to meeting requirements of the Adopted Island Plan 2011 (revised 2014) as a whole, there would be a presumption in favour of the proposed development.
45. **Policy GD1** sets out general development considerations that will apply to all developments. Separate paragraphs of the policy relate to different aspects of development, which are supported by more detailed policies elsewhere in the Adopted Island Plan 2011 (revised 2014). Paragraph 1 relates to the sustainability of development, Paragraph 2 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, whilst Paragraph 3 of the addresses effects on neighbouring amenity.
46. *Inspector's assessment:* The proposed development is considered to be in a sustainable location and can be accessed by public transport. It includes mitigation to safeguard protected species. However, the extent to which the proposals impact on neighbouring amenity forms one of the grounds of appeal and is considered further below.
47. **Policy GD3 - Density of development** requires development to achieve the highest reasonable density, commensurate with good design, adequate amenity space and parking and without unreasonable impact on adjoining properties. For developments

on sites of more than 0.2 hectares in size, development will not be permitted unless a minimum density, in accord with supplementary planning guidance, is achieved.

48. *Inspector's assessment:* The development site exceeds the minimum threshold and hence is required to meet the minimum density in accord with supplementary planning guidance. The proposed density and the effects of this on adjoining properties is a subject of dispute between parties and is considered further below.
49. **Policy GD7 - Design Quality** seeks a high quality of design that respects, conserves and contributes positively to the diversity and distinctiveness of the landscape and the built context. The policy lists seven characteristics of design that must be adequately addressed in development proposals. These include (1) the scale, form, massing, orientation, siting and density of the development and inward and outward views; and (2) the relationship to existing buildings, settlement form and character, topography, landscape features and the wider landscape setting.
50. *Inspector's analysis:* The choice of materials and design of the individual properties is considered to be of a high quality. However, the appellant has raised concerns about the siting and density of the development and its relationship to existing neighbouring properties in La Grande Piece. The grounds of appeal also refer to effects on landscape features, namely trees. These aspects are considered in more detail below.
51. **Policy NE2 - Species Protection** seeks to protect species and their habitats. Development will only be permitted where it would not cause significant harm to animal or plant species protected by law, or their habitats. Where adverse effects may arise from a proposal, mitigation measures must be identified.
52. *Inspector's analysis:* The Initial Ecological Assessment and Preliminary Roost Inspection has identified that it is likely that species protected under the Conservation of Wildlife (Jersey) Law 2000 are present on the site and includes provision for further ecological survey and mitigation. The Natural Environment Team has confirmed (response 26 June 2019) that the implementation in full of the mitigation measures set out within the Initial Ecological Assessment as well as the landscaping compensation measures will ensure that no negative impact is caused to protected species and that habitat is replaced to ensure their continued use of the site. These requirements can be secured by condition.
53. **Policy TT4 - Cycle Parking** aims to encourage cycle use through provision of cycle parking in all new developments in accordance with the adopted standards.
54. *Inspector's assessment:* Adequate cycling provision is included within the proposals.
55. **Policy WM1 - Waste Minimisation and New Development** sets out measures to encourage the minimisation of waste generated as part of construction activity and an increase in recycling, re-use and recovery of resources.
56. *Inspector's assessment:* The applicant has provided an acceptable waste management strategy.

Inspector's analysis of the issues

57. Based on the written documentation and my site inspection, I conclude that the main issues in this appeal are:

- The density of the proposed development and how this relates to the requirements of Policies GD3, GD1 and GD7 of the Adopted Island Plan 2011 (revised 2014);
- The effects of the proposals on neighbouring amenity including overlooking and noise and how these relate to the requirements of Policy GD1 of the Adopted Island Plan 2011 (revised 2014);
- The adequacy of the proposed parking provision and effects on traffic movements in La Grande Piece; and
- The effects of the proposals on trees.

The density of the proposed development and how this relates to the requirements of Policies GD3, GD1 and GD7 of the adopted island plan;

58. Policies within the Island Plan encourage more efficient use of land including achieving the highest reasonable density of development (Policy GD3). The proposed scheme is over the minimum threshold of 0.2 hectares established by Policy GD3 and hence is required to achieve a minimum density, in accord with supplementary planning guidance.
59. Guidance on the level of density that should be achieved in new developments is provided on page 40 of the Island Plan 2011 and within PPN6 ‘A *minimum specification for new housing developments.*’ The Island Plan identifies densities of around 12 - 14 dwellings per acre as a low level of density associated with ‘typical’ three-bedroom suburban housing estates. PPN6 sets out a series of rule-of-thumb density guides for different Built-up Areas. These range from around 65 to 75 habitable rooms per acre on sites in or around the edges of the Built-up Area to between 100 - 120 habitable rooms per acre on sites in the centre of St. Helier.
60. There is variation in the density figures quoted by the Department and the appellant and in the written documentation from the applicant. Some of this variation is attributable to the choice of metric (e.g. dwellings/ acre; habitable rooms/ acre), whilst some is likely to be due to differences in interpretation of how to calculate density. For example, the Department indicated that rooms over a particular size are to be considered two rooms for the calculation of density.
61. In its planning statement the applicant refers to the development having 43 habitable rooms on a site measuring 0.59 acres giving a density of 73 habitable rooms per acre, but in its supplementary written submission produced for the hearing (26 February 2020), the applicant states a density of approximately 65 rooms per acre. By contrast, at the hearing, the Department indicated it considered that the density may be in the order of 84 habitable rooms per acre. Both figures supplied by the applicant are consistent with the range set out in PPN6, whilst the Department’s estimate is slightly above the upper range.
62. At the hearing the Department stated that the proposed development would have a density of 11.8 dwellings/ acre, which it considers compares favourably with the density of the current housing in La Grande Piece, which it has calculated as 14.7 dwellings/ acre.
63. Whilst calculations of density can be helpful in providing a rough indication of the likely acceptability of the density of a proposal, paragraph 6.3 of PPN6 recognises that they are a crude tool and should be used in a flexible and reasonable manner with reference to other planning policies and requirements. Thus, there is a need to bring an element of site-specific assessment, including a consideration of how the

proposed development fits into its intended location, rather than a slavish adherence to calculated figures.

64. During my site inspection, I observed the arrangement of properties within La Grande Piece and surrounding streets. There are a mixture of housing styles including terraced and semi-detached properties with some small blocks of apartments. The Department describes the area as being medium to low density and I saw that, for the most part, dwellings are situated in fairly close proximity to each other. Whilst those dwellings closest to the proposed development to the south-east are three-bedroomed properties, they are arranged as terraces, increasing the apparent density of development.
65. Notwithstanding the appellant's concerns about the density of the scheme, I note that density was not a stated reason for refusal of the earlier proposal for the site.
66. The proposal represents an increase in density of the appeal site through the replacement of a single dwelling by 7 new properties. Having considered the proposed layout of the dwellings on the appeal site and their relationship to the neighbouring properties, I conclude that the proposed layout would not result in a development that appears overly dense or out of character with the dwellings in the immediate and wider area and hence the density would be acceptable. In reaching this conclusion, I have taken account of paragraph 1.8 of the Island Plan, which notes that *"The density of existing development in an area should not dictate that of new housing by stifling change or requiring replication of existing style and form."*
67. Overall, I conclude that whilst there is dispute between parties as to what the calculated density of development would be, there is no doubt that the scheme represents an increase in density and would satisfy the minimum density requirements required by Policy GD3. The proposed dwellings meet the minimum standards for housing, set out in Policy H6 including provision for parking and external amenity space. Subject to my analysis of the effects of the proposals on neighbouring amenity, set out below, I conclude that the proposed density and layout would meet the requirements of Policies GD1, GD3 and GD7 of the Adopted Island Plan (revised 2014).

The effects of the proposals on neighbouring amenity including overlooking and noise and how these relate to the requirements of Policy GD1 of the adopted island plan;

68. The spatial strategy of the Adopted Island Plan 2011 (2014) directs development to the Built-up Area. Inevitably, this will encourage the development and re-development of land within settlements and will result in some changes to the relationships between buildings, including residential properties. This in turn may have consequences for the amenity of neighbouring properties, including a reduction in the level of privacy that residents have previously enjoyed. Such changes are permitted by Policy GD3, providing they would not result in unreasonable harm to neighbouring uses. The test of 'unreasonable harm' to amenity helps to bring an element of objectivity to the assessment of change and has to be determined on a case by case basis in light of the particular characteristics of the location and the proposal. It recognises that neighbouring amenity following the proposal may not be the same as the level of amenity (including privacy) that the owners and occupiers enjoyed previously or may wish to enjoy in the future.
69. Units 2 - 7 allow for accommodation within the roof space, which has led the appellant to consider them as three-storey dwellings. There is a difference in ground levels between the rear of the properties on La Grande Piece and the appeal site in

the order of 1.2 metres. This means that the height of the eaves of the proposed properties would be in the order of 600 mm lower than those of the adjacent estate. This, combined with the distance between the rear faces of the proposed properties and La Grande Piece leads me to conclude that there would be no adverse effects from overbearing.

70. Proposed Unit 1 would be slightly closer to Cyrano Cottage to the north-east, than the existing Chestnut House, but would be separated from it by approximately 12 metres. The proposed unit would have a hipped roof and there would not be any windows at first-floor level on the aspect facing Cyrano Cottage. Consequently, I do not consider that it would result in unreasonable harm on the neighbouring property as a result of either overbearing or overlooking.
71. There is concern that there may be a mis-understanding about the position of the land ownership boundaries between the appeal site and La Grande Piece. There is a private access lane, which runs part-way along the rear garden space of numbers 6 - 10 La Grande Piece. The appellants state that this access lane, together with the vegetated banked slope that leads down to the appeal site, are in the ownership of the occupants of La Grande Piece. Based on the drawings and my site inspection, it seems clear to me that the 'red line boundary' which denotes the rear boundary fences for the proposed dwellings, is situated at the base of the slope. In any case, the grant of planning permission would not bring with it any rights to develop private land without permission.
72. The back to back distance between the proposed Units 2 - 5 and the rear of the properties on La Grande Piece would be around 23 metres, of which around 3 metres would comprise the change in ground levels and rear access path. The gardens of the proposed properties would be enclosed by a fence in the order of 2 metres high. Owing to the difference in ground levels, the houses on La Grande Piece would be at a higher level than the new dwellings. I conclude that this difference in levels combined with the fence reduces the potential for overlooking between ground floor rooms.
73. Some degree of mutual overlooking is not uncommon in built up areas, but I am conscious that the existing arrangement of dwellings within La Grande Piece means that there are limited direct lines of sight into neighbouring windows. The proposed development would introduce some limited potential for mutual overlooking between the rear first-floor windows of the new and existing properties. However, given the distance between the rear faces of the buildings, and relative angles I consider the potential for mutual overlooking into properties is limited and would not result in unreasonable harm.
74. There would be a greater potential for mutual overlooking of rear amenity areas from first-floor windows. However, I am mindful that La Grande Piece comprises terraced properties and hence some overlooking of adjacent gardens from rear upper windows is already possible. Given the angles and distances involved, the presence of the fences and that these windows serve secondary areas such as bedrooms, I do not consider that any resultant overlooking would result in unreasonable harm on neighbouring amenity.
75. The accommodation within the roof space of Units 2 - 5 would be served by a single roof light on the south-east side, which I do not consider would permit any unreasonable overlooking of the properties on La Grande Piece.

76. I have considered the effects of the proposals on noise levels. Whilst it is likely that there would be some alteration in noise levels as a result of the increased occupancy of the appeal site, there is no reason to anticipate that the proposed residential use would result in an exceptional increase in noise levels. Likewise, I do not consider that any increase in foot traffic along the parish-owned walkway to the proposed development would give rise to a significant increase in noise levels. Therefore, I conclude that there would not be an unreasonable effect on neighbouring amenity as a result of an increase in noise.
77. The appellants state that the trees along the western boundary of the appeal site help to reduce noise from the adjacent Technical Park and that their loss would result in increased noise. Whilst the trees may act to deaden the noise, I note that there are proposals for new planting and that the new dwellings would also act to block noise transference from the Technical Park.
78. In addition, the appellants have indicated that the trees on the slope and along their western boundary with the appeal site also form an important function as a noise barrier. These trees are in the ownership of the residents of La Grande Piece. As they would be in place at the time that the new development was completed, potential residents would be aware of their existence prior to purchase and so I do not consider there is a high risk that there would be pressure to remove them.
79. Proposed unit 6 would be the closest proposed property to the existing dwellings on La Grande Piece. The south-east side elevation of the property would face the existing property and be separated from it by a distance in the order of 18 metres. There are no windows proposed for this elevation. Given the absence of windows, the distance between the properties and the changes in levels, I do not consider that proposed unit 6 would have unreasonable effects upon the neighbouring amenity of properties in La Grande Piece as a result of overbearing.

The adequacy of the proposed parking provision and effects on traffic movements in La Grande Piece

80. Each dwelling would have three parking spaces and hence would satisfy the requirements set out in PPN3. An additional 2 visitor parking spaces would also be supplied. I note that the scheme is located within easy walking distance of bus stops. I am therefore content that adequate provision has been made for parking and access to the scheme.
81. During my site inspection I observed the existing gate, stated as allowing access between La Grande Piece and the appeal site. The gate appeared rusted and fixed shut, with a significant build-up of plant litter at its base. I conclude that it is not currently used for access and thus opening it up would potentially increase footfall along the path between the terraces on the north-west side of La Grande Piece. I accept the appellant's comments that there would be nothing to prevent visitors or residents from choosing to park within La Grande Piece and accessing the proposed development this way. However, I cannot see that there is any particular impetus for people to do this, given that adequate parking is provided as part of the scheme.
82. I have identified some dichotomy in the views of the appellants about the presence of the access gate. It seems to me that whilst the appellants are concerned that the presence of the gate would lead to potential parking, access and noise issues for the residents of La Grande Piece, they are also concerned that the keypad would prevent residents of La Grande Piece benefitting from its use. I agree with the Operations and Transport response that restricting access through the gate would be a missed

opportunity. Nevertheless, use of the gate and the resultant short-cut to La Grande Route de St Pierre would involve access over private land and there is no requirement on the applicant to allow this.

83. In conclusion, main vehicle access to the proposed development is via the Technical Park and adequate parking is present for the development to meet the required standards set out in PPN3. Consequently, there is little reason for visitors to the development to choose to park in La Grande Piece. I do not, therefore, consider that the proposed development would lead to a significant increase in vehicle movements within La Grande Piece.

The effects of the proposals on trees

84. Much of the appeal site is currently managed as a garden and comprises a large area of grassland and several semi-mature and mature trees and bushes. I accept that these provide a pleasing green backdrop to the rear gardens of the properties of La Grande Piece, which would be lost as a result of the proposal.
85. An Initial Ecological Assessment and Preliminary Roost Inspection has been undertaken, which has identified the potential presence of protected species. Mitigation has been proposed, which the Natural Heritage team is content would avoid significant harm to these species and their habitats, in line with the requirements of Policies NE2 and NE4 of the Adopted Island Plan 2011 (revised 2014). Implementation of this mitigation could be secured by condition to any permission that were granted.
86. I note the appellant's comments that the Initial Ecological Assessment includes an assessment of the habitat value of the vegetation along the slopes on the south-eastern boundary of the site, which are in the ownership of the properties on La Grande Piece. Whilst that may be the case, I do not see that this invalidates the findings of the Initial Ecological Assessment. As these areas would not be affected by the proposals, the scale of the predicted effects would be reduced below the already low levels identified within the Initial Ecological Assessment. Any additional mitigation measures required could be secured by condition to any permission that were granted.

Other points raised in submissions

87. I have considered the appellant's concerns about the safety of the proposed access arrangements, including safety of pedestrians and cyclists around the Technical Park, which were a reason for refusal of the previous application.
88. In its response to representations (1 July 2019), the applicant confirmed that the proposed scheme included a new footpath to the south of the roadway, which would allow pedestrians and children pushing bikes to access the development safely.
89. At the hearing the Department confirmed the amended vehicle access arrangements, including the introduction of an area of landscaping, which would direct vehicle users to follow the one-way system around the Technical Park. I note that the proposals would result in an improved visibility splay for egress from the Technical Park and that the Operations and Transport team has not objected to the proposed layout. I therefore consider that the proposed arrangements would be acceptable.
90. During the hearing it was noted that there is a difference in ground levels between the access road in the Technical Park and the proposed housing units. The submitted

plans do not show how this would be accommodated. The Department confirmed that this could be addressed through prior submission and approval of cross-sections showing the proposed vehicle access, which could be secured through condition to any permission that is granted.

91. The appellant has questioned the nature of the proposed development and whether it would represent the most appropriate type of housing to meet demand. Policy H4 - Housing mix, aims to ensure that proposals for residential development would contribute towards the need for specific types and sizes of home, relative to the latest published evidence of need. The extent to which a planning application meets the published evidence of need will be an important material consideration in the grant or otherwise of planning permission. However, it is up to an individual developer to decide which form of housing they may wish to develop. The applicant's planning statement sets out how the proposal would meet published housing needs and the Department has not disputed this. Thus, whilst the appellants may consider that an alternative housing type would be more appropriate, there is no suggestion that the proposed mix does not satisfy this policy.
92. The applicant has made reference to Policy GD8 - Percentage for Art and suggests that the bus shelter would act in lieu of this. Whilst the policy encourages developers to make a contribution towards public art, there has been no suggestion that this would be a requirement for this development.

Planning Obligation Agreements and Conditions

93. In its planning statement, the applicant proposed a monetary contribution, in the form of a Planning Obligation Agreement towards a bus shelter. Policy GD4 of the Adopted Island Plan 2011 (revised 2014) allows the Minister to negotiate the provision of appropriate facilities, where additional infrastructure or amenities would be required as a direct consequence of the proposed development. This can include financial contributions for the provision of facilities off-site. The offer of the bus shelter was made in recognition of consultation with the Constable of the Parish of St Peter, in 2016, who had indicated that consideration should be given to funds for safer hardstanding and protection for bus users.
94. Condition 4 to the appealed permission would require the highways works including the bus shelter to be completed prior to occupation of the development. The Department confirmed that it was content that this was an appropriate measure to secure the shelter, given that all works would take place on land owned by the applicant and did not require a Planning Obligation Agreement. However, it would be amenable to an altered trigger point for completion.
95. I am content that the bus shelter should be installed prior to occupation of the proposed development and that this could be adequately secured by a condition rather than the need for a Planning Obligation Agreement.
96. The Department indicated that, if the appeal were dismissed, it would wish to see an additional condition attached to the permission. This would require the submission and approval of the finished floor levels of the houses; the levels of the parking areas and gardens; and the slope of the access ramp into the site. This would be to provide certainty about the levels of the gardens and parking areas and to assess the acceptability of the access ramp and retaining structures.

97. I asked the Department to submit proposed wording of a condition after the hearing and this was distributed to both the appellant and the applicant for comment. No response was received from the appellant. The applicant did not provide a written response, but submitted two additional plans: 002 Revision D, which shows finished floor levels and proposed retaining structures; and 008 Revision B, which shows revised cross-sections with levels for the proposed access ramp. Whilst I make no comment on the acceptability of those drawings, the fact that the applicant has submitted them leads me to conclude that they would not object to such a condition.

Inspector's Conclusions

98. 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.
99. The proposal lies within the Built-up Area, consistent with the requirements of the spatial strategy of the Adopted Island Plan 2011 (revised 2014) (Policy SP1). It provides for an increase in density, whilst meeting the standards for housing, including provision of parking, and therefore meets the presumption in favour of development set out in Policy H6.
100. For the reasons set out above, I conclude that the proposal is not out of character with its location; that the density is appropriate for the location; and that the proposal would not result in unreasonable harm on neighbouring amenity.
101. I am content that the proposed conditions would ensure that that any effects on protected species and their habitats could be mitigated. Likewise, proposals to ensure that the vehicle access from the scheme and the necessary arrangements for drainage and waste management could be secured by condition. The scheme also allows for a new bus shelter, which can also be secured by condition.
102. Consequently, I conclude that the proposal would be in accordance with the requirements of the Adopted Island Plan 2011 (revised 2014) and in particular, Policies SP1, GD1, GD3, GD7 and NE2.

Recommendation

103. I recommend that the appeal should be dismissed and that planning permission should be granted, subject to the conditions included with the appealed permission, supplemented by an additional condition relating to finished floor and ground levels. The wording for this additional condition is listed in Appendix A.

Sue Bell

Inspector 06/04/2020

Appendix A.

Proposed wording for additional condition:

Prior to the commencement of the development hereby approved, details of the finished floor levels of the houses, and the levels of the parking areas and gardens, and the slope of the access ramp into the site, shall be submitted to and approved in writing by the Department of the Environment (see # below). These details shall include longitudinal cross sections through the ramp and details of any retaining walls required where there is a step in levels.

Reason - To ensure that the dwellings and their gardens and parking areas are constructed at the levels indicated on approved Site Section, and for the Department to assess the acceptability of the ramp and associated retaining structures in the interests of highways safety and to ensure an acceptable appearance, so as to satisfy the requirements of policies GD1 and GD7 of the Adopted Island Plan 2011 (Revised 2014).