

**PLANNING AND BUILDING (JERSEY) LAW 2002 (as amended)**

**Appeal under Article 108 against a decision made under Article 19 to grant a planning permission**

**REPORT TO THE MINISTER FOR THE ENVIRONMENT**

made under Article 115(5)  
by D A Hainsworth LL.B(Hons) FRSA Solicitor  
the inspector nominated under Article 113(2) from the list of persons appointed  
under Article 107

---

**Appellant:**

Janine Fraser

**Planning permission reference number and date:**

P/2019/0939 dated 3 October 2019

**Applicant for planning permission:**

Chris Sampson

**Site address:**

Land to the North of Quest End, La Route Orange, St. Brelade, JE3 8GQ

**Description of development:**

"Demolish existing garage and sheds to construct 1No. three bed dwelling with associated parking and landscaping to North of site."

**Inspector's site visit date:**

4 February 2020

**Hearing date:**

5 February 2020

---

**Introduction**

1. This is a third-party appeal against the grant by the Growth, Housing and Environment Department on 3 October 2019 of planning permission P/2019/0939 for the development described above. The permission was granted subject to conditions relating to ecology, landscaping, materials and parking spaces, which will require further details to be approved by the Department before the development is begun or occupied. A condition has also been imposed that withdraws permitted development rights for future extensions, outbuildings, additions and alterations to the roof, and windows including dormer windows.

2. The reason given by the Department for approving the development is as follows:

“The proposed development is considered to be acceptable having considered all of the material considerations raised. In particular, the development has been assessed against Policies GD1, GD7, and H6 of the Adopted Island Plan 2011 (Revised 2014). In this case, the proposed dwelling is not considered to adversely impact upon the amenities of adjoining neighbours nor to be harmful to the character of the area; the development can provide suitable parking arrangements and the proposal will not generate unacceptable levels of traffic generation on the adjoining public highway.”

### **The site and its surroundings and the approved development**

3. Quest End is a recently-enlarged two-storey dwelling which is situated within a row of dwellings on the north side of La Route Orange. The dwellings are accessed from La Route Orange by their own roadway that runs parallel to La Route Orange. They are all in the Built-up Area as defined in the Island Plan. La Moye Golf Club's driving range is immediately beyond their rear gardens; this is outside the Built-up Area.
4. The adjoining dwelling on the east side of Quest End is Rose Cottage, a bungalow that has been extended at the rear. The appellant's property, Revoan, adjoins Quest End's west side. Revoan is a property that was built following the grant of planning permission P/2013/0839. This authorised the replacement of the bungalow on the site (also known as Revoan) by two dwellings to be erected on the footprint of the bungalow and a rearwards extension of the footprint. The dwellings have been built, in accordance with the permission, as a 'two-generational home', consisting of a single building with an internal doorway on the ground floor providing access between the two units. The doorway could be blocked up in the future to create two self-contained dwellings sharing a party wall. The driveway and the gardens are shared by the two units.
5. The approved development will be carried out in the rear garden of Quest End and will share Quest End's driveway. This connects with the roadway serving the row of dwellings and is next to Revoan's driveway. Three parking spaces have already been provided at the front for Quest End and Quest End will retain the remainder of the front garden, as well as the nearest part of the rear garden. The remainder of the rear garden will be used to build the new dwelling and to provide garden areas, three parking spaces and a turning area for it.

### **The case for the appellant (and family)**

6. The appellant and members of her family live in Revoan. Together they are opposing the approved development for the following planning reasons: -
  - The decision to grant permission for the development is inconsistent with the way their own proposals for development at the rear of the former bungalow were dealt with, since they were not allowed to develop in this manner. Their application P/2012/0461 for permission to construct a new dwelling in their rear garden was refused, and the first reason for refusal was:

“1. The development proposals by virtue of, design, size, scale and position (tandem back land development), would be dominant and intrusive, thereby causing harm to the character of the existing dwelling, 'Revoan' and that of the existing pattern of development to the east and west of the plot in which it is located contrary to Policies GD1, GD7, H6 & SP7 of the Adopted Island Plan, 2011.”

- The approved development will be out of character with other development here, since there are no other dwellings to the rear of others and it will not match any of the dwellings at the front. It will set a precedent for other developers to put forward similar proposals, which will further erode the character and appearance of the locality.
- The approved development will be overdevelopment, since there is insufficient room for the parking spaces, turning space and garden areas that are needed for both Quest End and the new dwelling.
- The new dwelling will have shortcomings in design quality, light, garden space and aspect.
- The driveway as it passes Quest End will not be wide enough for fire service vehicles to gain access to the new dwelling.
- Revoan will experience a reduction in the standard of its residential amenities, because of a loss of privacy, particularly as regards the rear bedroom, a loss of outlook, and noise and disturbance through the use of the driveway, the parking spaces at the rear and the rear turning area.
- Insufficient regard has been had to wildlife and landscape considerations.

### **Other representations**

7. Similar representations about overdevelopment and access have been received from an interested person.

### **The case for the applicant**

8. The applicant makes the following points: -
  - There is a shortage of sites for new housing, which is recognised by the Island Plan. The Plan's policies encourage making better use of land in the Built-up Area. Policy GD 3 indicates that the highest reasonable density should be achieved for all developments, commensurate with good design, adequate amenity space and parking and without unreasonable impact on adjoining properties. Paragraph 1.8 on page 40 of the Plan states: “The density of existing development in an area should not dictate that of new housing by stifling change or requiring replication of existing style or form”.
  - There are no planning policies precluding tandem and backland development or prescribing rear building lines. Similar development to that approved at Quest End has been approved elsewhere in the Built-up Area.
  - Both Quest End and the new dwelling will have sufficient external amenity space, car parking spaces and turning space. The floor space of the new dwelling will exceed minimum space standards. The width of the driveway

and the parking arrangements meet minimum planning requirements as confirmed by the highway consultation.

- The new dwelling will have a low character and appearance, which will result in it having little impact when viewed from the roadside. The materials used will match those in Quest End. The dwelling will be built at a lowered garden level and will be single-storey with a shallow pitched roof and a flat roof. There will be no windows directly facing the Revoan's gable end and the spine wall on the western boundary will extend forward of the main façade to prevent overlooking. In addition new tree planting would take place on the western boundary.
- Some additional noise will be caused but the situation is no different to what takes place at present between the appellant's property and Quest End.
- Planning conditions have been imposed relating to ecological assessment and landscaping. An additional condition could be imposed requiring extra screening on the western corner of the veranda to improve the standard of privacy.

### **The case for the Growth, Housing and Environment Department**

9. The Department indicate that the Island Plan requires a more sustainable approach to the development and redevelopment of land and that this involves the application and delivery of higher densities and, in particular, greater housing yields than have generally been achieved before in Jersey. The Department stand by the reason given for granting planning permission and indicate that whether a development has an unreasonable impact on adjoining property or achieves an appropriate quality of design is a matter of planning judgement. They acknowledge that the appellant's view differs from theirs and they also accept that, in constructing a building in the position approved, a new relationship with adjacent properties will be formed.
10. In response to the appellant's assertion that the decision in the current appeal is inconsistent with the decision taken on the appellant's 2012 application for development at Revoan, the Department make the following points. The Island Plan was revised in 2014 and policy interpretations have been made in appeals since then that reinforce the Department's current approach. The development refused permission in 2012 would have had a larger dwelling at the rear and it was considered that it would be dominant and intrusive. The decisions taken later to approve developments at both Revoan and Quest End are consistent, since the outcome is that both plots will have two dwellings.
11. The Department agree that care has to be taken that development does not result in an unacceptable impact on neighbours' amenities or the character of the area. They state that the height of the new dwelling will be significantly lower than Quest End and neighbouring properties and maintain that it will not cause overlooking or loss of light or be overbearing. They add that there is no prevailing architectural character here and that the new dwelling will have a contemporary single-storey design that will respect the built context and contribute to its diversity.
12. The Department state that there will be adequate car parking spaces and garden areas for both the new dwelling and Quest End. They indicate that the

width of the driveway will meet the standards set out in the guidance, "Access Standards for small Housing Developments".

### **Inspector's assessments and conclusions**

13. The appellant and her family firmly believe that they were denied permission to build a dwelling in their back garden because of a requirement to keep to the prevailing rear building line, in order to preserve the existing pattern of development. They are therefore understandably perturbed to find that their neighbour has been given permission to build a dwelling in his back garden that will be well beyond the rear building line, but which is not considered to be harmful to the character of the area.
14. This is a significant concern because consistency in the planning process is important and like cases should be decided in a like manner or clearly distinguished from each other on their planning merits. Taking into account the parties' observations on this matter, I have carefully considered what might distinguish the two proposals on their planning merits.
15. The decisions were taken in 2012 and 2019. In the intervening years, the Island Plan has been revised and there is now more concern than ever about the housing shortage and the need to develop land in the Built-up Area at a higher density. In recent years, similar developments to this one have been approved elsewhere. In this location, the uniformity of the original row of bungalows has changed markedly since 2012 because of the more prominent new dwellings that have been approved at Revoan, Quest End and Dorville. These include the replacement of the bungalow at Revoan by two linked dwellings. Taking all these considerations into account, it seems to me on balance that when the impact on the pattern of development and the character of the area are assessed now, it is not inconsistent to adopt a less rigorous stance in relation to the rear building line than was taken in 2012.
16. Nevertheless, as the Department have indicated, even if there are now no overriding objections in principle to development of this kind at the rear of Quest End, the development will require careful planning in order to comply with Island Plan Policies GD 1 *General development considerations*, SP 7 *Better by design* and GD 7 *Design quality*, and H 6 *Housing development within the Built-up Area*. The main issues in this instance, and my conclusions on each of them, are as follows: -

#### A satisfactory means of vehicular access is required.

The means of access is described in paragraphs 3 and 5 above. The only significant concern is the width of the driveway leading to the new dwelling where it passes between the side wall of Quest End and the boundary with Revoan, which the appellant maintains will not be wide enough for fire service vehicles. There have been no official objections. This matter will be dealt with by the Building Bye-laws.

#### There should be adequate provision for car parking and turning space for both dwellings.

Quest End will have the three car-parking spaces at the front that have already been provided for it. These are accessed directly off the shared roadway. The approved plans show that the new dwelling will be provided with

three car-parking spaces and a turning area on the land between the front of the dwelling and the rear boundary of Quest End's garden. A planning condition requires the works to be carried out as approved. The current standards for car parking and turning space will be met.

Sufficient space is required for the new dwelling, in order to provide a satisfactory quality of accommodation.

The new dwelling will comply with the minimum standards relating to room sizes and external amenity space. Quest End's retained external amenity space, although much reduced, will still comply with minimum standards.

Parts of the southern elevation of the new dwelling, which will contain a bedroom window and a dining area with glazed doors opening onto a veranda, will be overlooked directly from the first-floor windows in the rear elevation of Quest End and at an angle from the Juliet balcony on the first floor of the rear elevation of Revoan. The separation distances will exceed 20 metres, which in my view is the minimum needed to maintain the privacy of the new dwelling. The proposed fencing and landscaping may also assist in maintaining privacy but, along with the site's already high boundary features, they will result in the new dwelling having a restricted outlook.

A well thought-out design and layout is needed in order to protect the appearance of the surroundings and to avoid harming neighbours' amenities.

The new dwelling will be a single-storey building. It will have a low profile, with a roof that will be a combination of a shallow mono-pitched roof and a flat roof. It will not therefore have an overbearing impact on its surroundings or on the outlook from neighbouring property. Its design will not match others in the row, but following recent development here there is a variety of house styles and no longer any uniformity.

The privacy of neighbouring properties will be protected, since there will be no windows in the flank walls, apart from one small bathroom window that should be obscure glazed, and no windows in the roof, apart from high-level roof lights. The aspect towards Revoan's Juliet balcony will be screened by the side wall and roof of the verandah and by planting. The applicant's offer to provide extra screening on the western corner of the veranda to improve the standard of privacy can be dealt with by the Department when the landscaping scheme is submitted for approval in accordance with the planning conditions.

The occupiers of Quest End and Revoan will experience some reduction in the standard of their residential amenities, because of new traffic movements, the parking and manoeuvring of additional cars near to their gardens and a general increase in domestic activity. Quest End is the applicant's property. A similar state of affairs has existed at Revoan from the time it became two dwellings. The benchmark in Policy GD 1 is whether the changes would "unreasonably harm" living conditions. In my opinion, they would not.

### **Inspector's overall conclusion and recommendation**

17. As can be expected, it is usually difficult to fit a new dwelling successfully into a back garden in an established residential area, and this proposal illustrates some of the potential drawbacks. My overall conclusion is that the proposal is acceptable when all the material considerations are weighed in the balance.

18. I therefore recommend that the appeal is dismissed.

Dated 20 April 2020

*D.A.Hainsworth*

Inspector