

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

Appeal under Article 108 against a decision made to refuse to grant Planning permission

REPORT TO THE MINISTER FOR PLANNING AND ENVIRONMENT

By Mr Philip Staddon BSc, Dip, MBA, MRTPI

Appellant: Daisy Hill House Ltd

Site address: *La Brecque*, Le Mont de Rozel, St Martin, Jersey JE3 6AN

Application reference number: P/2019/1138

Proposal: 'Demolish extension and construct new extension with terrace above to North-East elevation. Construct extension to South-West elevation. Raise roof to extend first floor and install cladding to all elevations. Convert part of existing garage to form additional habitable accommodation and construct extension to North-West elevation.'

Decision notice date: 19 February 2020

Procedure: Written Representations

Inspector's site visit: 17 August 2020

Inspector's report date: 14 September 2020

Introduction

1. This report contains my assessment of the Planning appeal made by Daisy Hill House Ltd against the decision to refuse to grant Planning permission for a scheme of extensions and alterations to an existing dwelling known as *La Brecque* in the parish of St Martin.

Procedural matters

2. The main parties agreed to the Written Representations procedure in this case.
3. The application was initially determined under officer delegated powers on 5 December 2019, with the decision notice citing two reasons for refusal. The first relates to impacts on Listed buildings and the second relates to impacts on the living conditions of near neighbours. However, following a review request, the Planning Committee considered the scheme to be acceptable in terms of Listed building impacts and removed that reason for refusal, but maintained the reason relating to neighbours' living conditions. A

replacement decision notice, citing the single reason for refusal, was issued on 19 February 2020.

4. There is an error in the refusal reason, as it refers to an adjacent dwelling to the 'south-west', when it should read 'south-east'. This is acknowledged by the parties and I do not consider that any fairness issues arise. I have assessed the appeal on the basis of the corrected position.
5. There are also some errors in the submitted drawings in terms of the labelling of the proposed elevations. I have based my assessment on the true position.

The appeal site

6. *La Brecque* is a dwellinghouse occupying a seafront plot overlooking Rozel Bay and its historic harbour. It is situated within the south-eastern part of the small settlement that is included within the designated Built-up Area. The dwelling appears to date from the middle part of the twentieth century and shows signs of incremental additions over the years.
7. There are three distinct sets of buildings on the site. The first is the (assumed) original main dwelling, which is located towards the seafront (north-east) end of its tapered rectangular plot; this has accommodation at two levels, the upper level including a larger boxy dormer type projection on the front, spanning most of the width of the property and opening on to a first floor balcony which overlooks the bay. The second is a rear wing, which runs south-westwards from the main house alongside the road; it has two levels of accommodation, the first floor comprising two bedrooms lit by rooflights on the roadside and some dormers on the other side. The third is a detached garage, situated further to the south west where the plot tapers. The three blocks enclose a central courtyard. The buildings are of no particular architectural merit.
8. To the south-east of the site there is a modest bungalow, *Villa Taormina*, which sits on a higher level. On the other side of the plot, and across the road, is the former Rozel barracks, a Listed building now converted into residential use and, further inland, another Listed building, *Apple Cottage*.

The appeal proposal and the refusal decision

9. The application sought Planning permission to extend, alter and generally remodel the house. Whilst the broad building footprint and format is similar to the existing three blocks, the proposed remodelling exercise is quite comprehensive. Internally, the main house and wing would be united and opened up to create an entrance hall, reception and large open plan kitchen / dining / living area, with 4 bedrooms and bathrooms above. The two front (sea facing) bedrooms would have glazed doors opening on to a first floor terrace area. The existing garage would be extended and split into two parts: one element would be guest accommodation, comprising one bedroom, a bathroom and living area; the second part would be a car garage with cycle store.

10. Externally, the buildings would include stone tile and timber cladding, new windows and profiled zinc roofs. The roof profile over the wing and garage would be that of a conventional pitched roof, whereas over the main house, the part pitched and hipped roof planes on its four sides would contain a central flat roofed element. The roof height over the main house is a little higher than the existing structure, although the plans show it to be below the existing chimney pot height.
11. As noted above, the application was determined by the Planning Committee following a request for a review. The single refusal reason states:

"The bulk and massing and resultant visual weight of the remodelled dwelling and its close proximity to the adjacent dwelling and associated garden/terrace to the south west is such that the development is considered to have an unacceptable overbearing impact on the near neighbours, causing "unreasonable" harm to the living conditions of the respective occupants. Accordingly, the proposals fail to satisfy Policy GD 1(3) of the Adopted Island Plan 2011 (Revised 2014)."

Summary of cases of the parties

The Appellant

12. The Appellant considers that the proposal, compared to the size and scale of the existing building, would not be overbearing to the neighbours of *La Brecque* by virtue of the marginal increase in size and scale of the proposed extensions, and owing to the distance of the proposal from, and the difference in levels to, the neighbours either side of the site and, in particular, the neighbour (*Villa Taormina*) to the south east.
13. The Appellant states that it has carried out the 25° BRE test used by the Inspector in the Appeal for Le Squez 4 (P/2015/0616) to determine whether a proposal was overbearing to neighbours. This exercise confirms that the proposal satisfies this test, and which therefore also passes the GD 1(3) test of "*what the neighbours might expect to enjoy*" given that the site is located in the Built-up Area in which there is a presumption in favour of new dwellings and alterations or extensions to existing dwellings.
14. The Appellant further states that the site is in the Built-up Area for which Policies SP 1, SP 2, SP 3, BE 6 and H 6 of the Island Plan encourage new residential development to be located, including extensions and alterations. For instance, Policy H 6 states "*proposal for new dwellings, extensions or alterations to existing dwellings, or changes of use to residential, will be permitted within the boundary of the Built-up Area, as defined on the Proposals Map, provided that the proposal is in accordance with the required standards for housing as established and adopted by the Minister for Planning and Environment through supplementary planning guidance.*" The Appellant contends that the proposal is in accordance with this guidance.

The Planning Authority

15. The officer report provides a comprehensive assessment of the application proposal. For the purposes of this appeal, where the main issue relates to the impact of the proposal on neighbours' living conditions, the relevant section states:

"It is acknowledged that the density of development within the BUA is likely to be higher than other residential settlements (i.e. within the less populated Green Zone and Coastal National Park) and as such expectations as to the level of amenity may differ. Nonetheless careful consideration must be given to the impact of development upon neighbouring land users.

The policy (GD 1 para 3) test in this regard is one of "unreasonable" harm.

The concerns expressed regarding privacy, particularly in respect of the new first floor terrace to the north-west are noted. However, the relationship of neighbouring land users relative to one another; and, the position of openings and elevated outdoor terraces/gardens are such that the perceived impact, if any, of the terrace (supplemented by the specified privacy screen) is not considered to so significant so as to cause "unreasonable" harm.

The increase in the height of the remodelled dwelling, approx. 900mm maximum, may not be significant. However, the manner in which that space is delivered is such that the bulk and massing of the first floor would increase markedly, changing the characteristics of the existing property to a more conventional two storey dwelling, increasing the visual weight of the development, particularly when viewed from the neighbouring occupiers to the south west. The resultant impact is such that the remodelled dwelling is considered to have an unacceptable overbearing impact, causing "unreasonable" harm to the amenities of the near neighbours.

The proposed development therefore fails the relevant test under policy GD1 para 3."

Other parties

16. At the application stage, four letters of objection were lodged. These covered a wide range of issues including the concerns about the proximity to Rozel barracks, increased height and scale, overlooking and loss of privacy, inappropriate design, overdevelopment of the plot and parking / access issues.
17. At the appeal stage, a further representation was received which stated that the site was in a highly sensitive position and it was imperative that overall height was not increased. It further stated that the proposal would severely compromise the privacy of the adjoining property.

Inspector's assessment

18. The main issue in this appeal relates to the effect of the proposal on the living conditions for occupants of the adjacent property, *Villa Taormina*, to the south-east.
19. *Villa Taormina* is a modest sized single storey bungalow, with its main aspect and terrace overlooking the bay. There is a window in its side (north west) elevation facing towards the appeal site, although there is a comfortable intervening space between the side wall and the existing appeal property; there is also a garden shed in this space. There is mature vegetation along this boundary such that views of the existing house itself are partly screened.
20. When viewed from *Villa Taormina's* side garden and the terrace, the appeal property is not particularly prominent as it is set at a notably lower level. The appeal proposal will alter this view. Drawing no 3577/250/RevP7 shows the proposed elevations with the existing dwelling profile shown in red. The south-east elevation will face towards *Villa Taormina* and this shows that the overall roof height will rise by about 830mm¹. It also shows that, in that sideways view (from the bungalow), there will be more walling visible and it would be on one plane (rather than the slight set back of the dormer structure).
21. I inspected this relationship when I visited and looked from various viewpoints in the grounds of the bungalow and from its terrace area. The modest increase in height of the roof form will slightly limit views in a north-westward direction, but this would just partially obscure elements of upper floors and rooftops of buildings in the distant view beyond. The increased height would not appear overbearing, particularly given the separation distance and the noticeably lower level of the appeal property, which means that *Villa Taormina* will remain higher and more elevated.
22. The increased amount of flank walling will also have some impact. However, it is not a particularly large area, it will not block any views and, due to the horizontal separation distance and vertical difference in levels, it will not appear as overbearing or unduly imposing on the living conditions enjoyed by occupants of *Villa Taormina*.
23. Overall, I assess that there will be some effect on the living conditions enjoyed by occupants of *Villa Taormina*, but it will be quite limited and not unreasonable in amenity terms in this Built-up Area location. I consider that the proposal satisfies Policy GD 1(3), which requires that new developments do not unreasonably harm the amenities of neighbouring uses.

Conclusion and recommendation

24. For the reasons stated above, I recommend that the Minister **ALLOWS** this appeal and **GRANTS** Planning permission for the development proposed under reference P/2019/1138. Should the Minister agree with my

¹ The difference between the existing dormer height level (55.49) and the proposed roof level (56.32).

recommendation, I would suggest that, in addition to the standard conditions A (time limit) and B (approved plans), further conditions be imposed in respect of i) approval of facing materials to ensure a satisfactory standard of development, and ii) details of the first floor balcony privacy screen and its long term maintenance, in the interest of amenity.

P. Staddon

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