

## **REPORT TO MINISTER FOR PLANNING AND ENVIRONMENT**

**By Graham Self MA MSc FRTPI**

Appeal by Ms Veronica Simmons against a refusal of planning permission.

Reference Number: RP/2020/0855

Site at: La Maison du Mont au Pretre, La Route du Petit Clos, St Helier, JE2 3FX.

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### **Introduction**

1. The appeal is against the refusal of planning permission for development described in the application and in the decision notice as follows.

In the application, the development was described as: "REVISED PLANS to P/2017/1197 (Demolish extension to North elevation. Construct extension to North elevation with terrace. Various external alterations to include install rooflights to West and East elevations): Omit approved extension and construct new two storey extension to North elevation. Omit 1 no. rooflight and install 3 no. PV panels to East elevation."

In the decision notice, the development was described partly in the same way as above, but with the addition of the words: "AMENDED PLANS RECEIVED: Relocate Solar Panels from LB to south and west elevations of extension, amend south, east and west elevations to granite finish, alterations to fenestration, omit juliette balcony and replace with lead dormer."

2. I held a hearing into the appeal and inspected the site on 23 June 2021. At the hearing the main participants were Ms Stephanie Steedman of KE Planning for the appellant (with contributions from other advisers and from Ms Simmons), Mr Andy Townsend for your Department, and Mr John Nicholson of MS Planning for Ms M Lansdowne (occupier of 2 Priory Close).
3. The application appears to be dated either 30 June 2020 or 29 June 2020 – those are the dates of "document upload" on the online version of the application form. However, the date 8 June 2020 also appears on this form (at the top). No application date is mentioned in your Department's decision notice, which is dated 26 January 2021.
4. This report includes a brief description of the appeal site and surroundings, summaries of the cases for the appeal parties, my assessment, conclusions and recommendation. The appeal statements, plans and other relevant documents are in the case file for you to examine if necessary.

### **Reasons for Refusal**

5. The reasons for refusal of planning permission were:

"(1) The proposed pitch-roofed extension to the north elevation will have an overbearing impact on the outlook from the nearest windows and private amenity space of the neighbouring dwelling and will result in the loss of beneficial late-afternoon sunshine, thereto, at certain times of the year. Accordingly, it is considered that the proposed development would unreasonably harm the living conditions for nearby residents, contrary to

the provisions of Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).

- (2) The proposed development would not respect or complement the design, nor would it be sympathetic to the scale and proportions, of the existing building, reflecting an overdevelopment of the north of the site, and, given its siting, scale, form and mass, would not respect the space between buildings that contributes to the character of the surrounding area, which consequently, would not preserve or enhance the special or particular interest of this Grade 2 Listed Building, contrary to Policies BE6, HE1, GD7, and GD1 of the Adopted Island Plan 2011 (Rev 2014)."

### **Site and Surroundings**

6. Drawing Number 19004-001 is a plan of the existing site, showing the position of the house within its plot and the location of adjacent properties. Drawing Number 19004-002 provides a series of photographs of the site and immediate surroundings. The photograph in the top right corner of Drawing 002 ("garden view looking east") shows the west elevation of the house with the existing extension on the left.
7. The appeal site is on the north side of La Route du Petit Clos, separated from the road by a high boundary wall with entrance gateway. The dwelling has two main parts: the original house, which has two storeys below a fairly steeply-pitched tiled roof, and an L-shaped single-storey wing of modern design which extends north and westwards from the north of the original building. The main house is laid out "side-on" to the road with its principal façade and front entrance facing west.
8. The main house evidently dates from the 17<sup>th</sup> century, with possible 16<sup>th</sup> Century origins. It has a pantile roof and brick chimneys. It is constructed with mostly random stone with dressed stone quoins, and is evidently designated as a Grade 2 listed building because of its architectural and historic importance.
9. Most of the western part of the land attached to the house is at about the same level as the house. At the rear or east, the garden of the house rises to a higher level than the land at the front. There is also a marked change in land level along the northern boundary of the site, where there is a stone wall and fence and the land to the north is around 2 metres above the level of most of the appeal site. Three houses, Numbers 1, 2 and 3 Priory Close, stand in small plots in this area, close to the boundary of the appeal site. (Their locations can be seen on Drawing Number 19004-001: Number 1 Priory Close is towards the west, Number 3 towards the east). Between Numbers 2 and 3 Priory Close there is an open, hard-surfaced area used for vehicle parking and turning.
10. The house at Number 1 Priory Close has what appear to be kitchen and dining room windows facing towards the appeal site. At Number 2 Priory Close, there is a living room with full-length glazed French doors in the south elevation. Part of the adjacent garden area at this property is a paved patio; part is grassed and there is an area of lawn raised about 30 centimetres above the rest of the garden. The garden is bordered by a fence about 1.7 metres high above the patio level and there is also some evergreen hedging along the southern border of the garden. The house at Number 3 Priory Close stands east of Number 2 and has its rear garden to the south.

## Case for Appellant

11. The documents submitted by the appellant at appeal stage include the grounds of appeal, a main statement of case, and a further response. Documents submitted at application stage include a Design Statement, a Planning Statement, and a Heritage Impact Statement (Draft 2). The main statement of case has appendices covering aspects of the site's planning history, including previous decision notices, the listed building schedule, the inspector's report and Minister's decision on application reference P/2016/1742, the decision notice and plans relating to application reference P/2017/1197, and copies of various items of correspondence. The further response has an appendix containing email correspondence about adjustments to the proposal described by the applicant's architect (Ian Pallot).
12. In summary, the main points of the appellant's case are:
  - The proposed extension is intended to provide enhanced modern and energy efficient family accommodation, replacing a seventies extension which is outworn and not complimentary of the listed building. The proposal would have a traditional approach, less discordant than the extant planning permission for a modern-design extension.
  - The design of the extension would respect the heights and forms of surrounding buildings. Materials would complement the historic palette of La Maison du Mont au Pretre.
  - The proposal accords with the Island Plan and would not cause unreasonable harmful effects on neighbours.
  - The approval of planning permission in 2014 for three houses at Priory Close has compromised the character and setting of the appeal property because of the closeness and higher level of the houses to the north, and because of the failure to retain the important boundary hedge which helped to protect the setting of La Maison du Mont au Pretre.
  - The history also includes an application for a single and two-storey extension to the north of the appeal property in 2016 which was initially approved under delegated powers but refused in 2017 following a third party appeal by Ms Lansdowne of 2 Priory Close. The refusal was because of harm to the amenities of No 2 Priory Close.
  - The scheme approved in 2017 (then extended for a further three years in March 2020) was for replacing the existing single-storey extension to the north of the appeal property with a modern design. The applicant bought the property in August 2018.
  - The proposal meets policy requirements. The site is in the built-up area. The design compliments the design, detail and materials of the existing building, does not harm the surrounding area and meets the tests of Island Plan policy HE6. It also complies with the "better by design" requirements of Policy SP7, as well as the general and design quality considerations of Policy GD1 and GD7.
  - Reason for refusal No 2 is at odds with the recommendation of the Historic Environment Team, who raised no objection subject to some details. The proposal has also been further enhanced by revisions in 2020 (including relocating the solar panels from the listed building into the proposed extension, changing the wall finish of the extension from render to granite, re-arranging the fenestration, and removing the Juliette balcony

from the south elevation). The proposal complies with Policies SP4 and HE1.

- The proposal would comply with Policies SP4 and NE2 of the Island Plan and with policies on the aquatic environment.
- The applicant has consulted with neighbours through the design process and the scheme has been revised in response to neighbours' concerns. The footprint has been reduced from that permitted in 2017. The east end has been drawn back and a hip roof incorporated instead of a gable. Light effect has been considered. A single-storey lean-to has been included at the west end of the extension.
- Detailed shadow studies have shown that there would be no unreasonable impact on neighbours through loss of sunlight or daylight. Great care has been taken to avoid unreasonable harm through increased building mass upon neighbours. The area immediately north of the proposed extension provides a parking area and paths and is not a private amenity area. Only the slope of the extension roof would appear above the garden fence between the appeal property and No 2 Priory Close.
- The applicant is concerned that third party agents exerted undue pressure on planning officer opinion during the decision-making process.

### **Case for Planning Authority**

13. The Department's case is set out in a Response statement, with attachments including the Department's report on the application, the listed building schedule, the inspector's report and Ministerial decision on application P/2016/1742 and drawings relating to refused scheme P/2016/1742, approved scheme P/2017/1197 and appeal scheme RP/2020/0855.
14. The main points of the case are:
  - The refusal of planning permission resulting from the previous appeal was because of the impact of the proposal on the property to the north. The later approved application replaced the two-storey extension proposed at the north end of the building with a single storey contemporary structure which allowed the listed building to remain dominant.
  - The current application would reintroduce the two-storey extension at the north end of the listed building, although it would have a hipped rather than gable roof and would be slightly reduced in height and offset to the west. The proposal would be unreasonable in its impact on the amenities of the property to the north and would not satisfy Policy HE1 as regards the impact on the listed building.
  - The proposal would also conflict with Policies BE6, GD1 and GD7 for the reasons explained in the officer's report on the application. The neighbour impact would be unreasonable harm under Policy GD1.
  - The allegation that too much weight was given to third party objections is not supported by any evidence.
  - Although the Historic Environment Team removed their objection they considered that the proposal would have an impact on the setting and character of the listed building and suggested that the width of the extension needed to be narrowed to make it subordinate to the listed building; but the width had not been reduced.

- Under Policy HE1, proposals which do not preserve or enhance the special or particular interest of a listed building or place and their settings will not be approved. The proposal would have a negative impact on the listed building and its setting, so Policy HE1 is not satisfied.

### **Representations by Other Parties**

15. Written submissions objecting to the application and a supplementary statement on the appeal were submitted by MS Planning on behalf of Ms M Lansdowne of 2 Priory Close. The original submission is appended to the supplementary statement as Appendix A. Three other appendices refer to: (B) shadow study from current application; (C) approved planting plan from P/2014/1334; and (D) an email to the Planning Department dated 25 November 2020.
16. The main comments are summarised below.
  - Ms Lansdowne supports the Department's refusal of planning permission. Following a previous refusal, then the grant of permission for a scheme which was acceptable, the applicant appears to be pursuing a strategy of obtaining permission by attrition. There has also been a process of discussions and repeated changes apparently involving informal sketches making it difficult to follow the application.
  - The processing of the application has been procedurally flawed. It should not have been categorised as an "RP" application. Even after revisions to the application, the Heritage Impact Statement was not updated and is inconsistent with the application. The Historic Environment Team's support for the proposal is based on a misunderstanding. The application included the replacement of PVC windows and doors with timber ones, but window and door joinery details are shown in Drawing 009H as subject to a future application.
  - The previous owner of the appeal property obtained planning permission for the three properties at Priory Close, so must have been aware of the close relationship with these properties.
  - The inspector who assessed the appeal against permission P/2016/1742 considered that the then proposed dower extension would have an overbearing impact on Ms Lansdowne's property (paragraphs 28 and 29 of the inspector's report) and cause loss of late afternoon sunlight. The Minister agreed and judged that the development would unreasonably harm living conditions for neighbouring residents. Although the form of the extension has changed, the same issue remains.
  - The proposed two-storey extension would also not preserve or enhance the listed building or its setting, and so conflict with Policy HE1. The extension would challenge the primacy of the elevation of the host building and erode its details, for example by eliminating a north-facing window.
  - The suggestion that undue pressure and influence was exerted on the case officer by the third party's agent is disputed. Communications with the case officer were limited to the letter and email in Appendices A and C of the agent's statement.

17. Written representations objecting to the proposed development were also submitted by Mr G Baxter of 3 Priory Close and Ms K Coveney of 1 Priory Close.
18. Mr Baxter comments that the current proposal would be too high and not subservient to the listed building. The proposed line of rooflights to the east roof pitch would be too regimented. The large solar panel on the east pitch would be visually offensively and not in character with the building's character. The overall design is a jumble of mis-matched shapes, materials and details which would detract from the listed house. The scheme would not comply with Island Plan policies SP4 and HE1 and would overbear neighbouring properties.
19. Ms Coveney submits that the extension would not be in keeping with the listed building. She would not be opposed to a single storey extension which did not dramatically change the look of the area but the current proposal would stick out like a sore thumb.

## **Assessment and Conclusions**

### **Procedural Matters**

20. Part of the case argued for the occupier of Number 2 Priory Close concerns the way the application was processed, particularly with reference to the number of changes which were made to the proposal after the submission of the application, and the difficulties these caused to interested parties trying to understand what was proposed.
21. I, too, have had difficulty detecting what was or is being proposed by the application subject to this appeal. For example, one of the application plans is Drawing Number 19004-012, which shows various 3D images of the proposed development. It is dated April 2020. This plan is listed in the planning register as "Photograph 19004-012 Proposed 3D Views",<sup>1</sup> so it is not listed as one of the "superseded" plans. However, it seems that several aspects of what is depicted in these drawings are no longer proposed. Various changes were put forward in an email from Ian Pallot (the applicant's architect) addressed principally to Tracey Ingle (of the Historic Environment Team, which is evidently not part of the Infrastructure, Housing and Environment Department) on 24 September 2020. The changes were described in the email as "adjustments" and were illustrated in an attached sketch.
22. To make matters worse, the sketch submitted in September 2020 is not filed in the planning register in the same place as the accompanying written submission by Mr Pallot. I found the sketch filed as one of 24 submitted plans (though not in date order with the other plans); but the written submission to which it was attached (wrongly dated in the register as 25 November 2020, not 24 September 2020) is filed as one of five "Other Documents" without its attachment. The title of the sketch in the planning register is: "Grouped Plan Interim Sketch to Address HET Concerns". But that is not its title. It is actually titled: "Proposed South Elevation 03". There is no date or scale on it.<sup>2</sup>
23. In this instance the application was allocated an "RP" reference number, indicating that it was a "revised" proposal. But changes were then made several months later, so it became a "revised revised" proposal. As recorded at the start

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<sup>1</sup> The label "photograph" is misleading as the 3D images are based on drawings.

<sup>2</sup> Revision H of Drawing Numbers 19004-009 and 19004-010 showing proposed elevations are dated April 2020. I think this date must be wrong since the features shown on these drawings were not proposed until months later, and the drawings are dated 25 November 2020 in the planning register.

of this report, your Department's decision notice refers to "Amended Plans Received: Relocate Solar Panels from LB to south and west elevations of extension, amend south, east and west elevations to granite finish, alterations to fenestration, omit juliette balcony and replace with lead dormer." From these words, it is possible to work out that the refusal decision was based on only parts of the application and took into account changes. But it should not be necessary for anybody with an interest in a planning application to have to research and repeatedly cross-check submitted material to the extent necessary in this case in order to find out what is being proposed.

24. A key problem here is the way planning applications are processed in Jersey. The extent of changes to development proposals which are frequently allowed, even sometimes apparently encouraged, between an application being submitted and the decision on it being made is far greater than comparable jurisdictions in my experience. The result is that information and plans submitted with applications cannot be relied on, creating a source of confusion with the potential to affect many people. The problem is made even worse if material submitted by applicants is obscurely or incorrectly filed in a publicly available register, and if plans submitted long after the date of an application are labelled with the same date as the original application plans.
25. It has been necessary for me to consider and report on this matter since it was part of an appeal party's case; but I refrain from further assessment and from making any recommendation on it, as that would be outside the scope of this appeal.
26. One of the appellant's arguments was that undue pressure and influence was exerted by "third parties" on the Department's case officer. There is also mention of "aggressive tactics". As agent for Ms Lansdowne, Mr Nicholson of MS Planning evidently contacted the Department's case officer by letter and email to find out what was happening about the application and to complain about points of procedure. It is common knowledge that Mr Nicholson was employed by the government until fairly recently, so I can see why such communications could lead to suspicions or could be interpreted as exerting pressure; but there is no evidence to indicate that anything improper or unduly aggressive occurred.

#### **Planning Issues**

27. This appeal raises two main issues: first, whether the design of the proposed extension in relation to the existing house would be satisfactory, taking into account the architectural and historic character of the existing house and its status as a listed building; second, whether the impact of the proposal on the residential amenities of neighbouring properties would be acceptable. These points have to be considered having regard to relevant planning policies.
28. On the first issue, a striking feature of this case is what in my view is the uneasy visual relationship between the existing extension and the main house. The rather squat shape of the western projecting part of the extension with its low-pitched roof does not reflect or complement the form of the listed building, and although the extension's rendered finish could be said to match the rendered north flank of the main house, the prominent position of the extension juxtaposed with the characterful stone-fronted west elevation of the house makes this aspect of the extension's design noticeable as one of its jarring features. So a scheme for replacing the existing extension could be regarded as a positive starting point. However, the fact that unsuitable development has been permitted in the past does not mean that the criteria appropriate when considering development affecting a listed building should not be applied.

29. The submitted drawing showing proposed 3D images (Drawing Number 19004-012) – particularly the images shown in the bottom right and top left corners of this drawing – provides an indication of how the proposed extension as originally designed would affect the listed building and its setting, looking towards its important front (west) elevation. In my judgment the form of the extension with an L-shape involving an awkward roof join, an “extension to an extension” on the west elevation with its low-pitched lean-to roof shape<sup>3</sup> and a south-facing (ie sideways-facing from the extension) first floor dormer would contrast with the simple, symmetrical shape of the main house when seen from the front. The combination of the extension’s bulk and its siting very close to the site boundary would also give the listed building, and the enlarged property as a whole, a cramped setting. Finishing materials including timber cladding, a flue, partly lead covering on the south-facing dormer and dark slate roof would not harmonise with the listed building; nor would the large glazed areas in the west and south elevations of the extension.
30. Taking those factors into account, I consider that the extension would detract from the listed building and harm its setting in several ways.
31. Some of these points have been the subject of proposed amendments, as described in the email from Ian Pallot to Tracey Ingle mentioned in paragraph 21 above.<sup>4</sup> But other points remain as originally proposed, for example the basic shape and size of the extension, the use of materials such as timber and lead cladding, and the proportion of window to solid wall.
32. The Planning Statement submitted for the applicant states that “the building form, proportions and detailed arrangement [of the proposed extension] seek to respect and follow the design of the Listed House”. That would certainly not have been so with the original proposal as depicted in Drawing 012 when the Planning Statement was written and would still remain not so even assuming adoption of the later proposed revisions. The claim for the applicant that the extension “complements and enhances the character and setting of the listed house” is in my view unjustified.
33. In commenting on the shape of the extension, including what I have called “an extension of an extension”, I bear in mind the evidence from an old photograph that in the 1920s part of the house had a sloping roof extending from the northern gable. So a “lean-to” shaped addition with a sloping roof attached to a gable wall would not necessarily conflict with the property’s historic character. I can also see why this aspect of the proposal came about, to reduce the impact of the development on Number 3 Priory Close. But considering the proposed design as a whole, the shape and contrasting finishing materials of this feature would make it look as if it had been “tacked-on” to an extension which itself would look “tacked-on” to the house.
34. Old photographs show La Maison du Mont au Pretre with a thatched roof, and the pantile roof covering is evidently not of 17<sup>th</sup> Century origin; but that does not help to make the proposed mix of dark slate and pantile a suitable blend. If the extension would have been much smaller in scale, such considerations might have been less significant. The same might perhaps apply in locations such as a

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<sup>3</sup> As I pointed out during the hearing, the Heritage Impact Statement submitted for the applicant wrongly describes this as a “catslide roof” - a jargon term for a roof which has a slope extending from the ridge continuously down below main eaves height. There is an example at the rear of La Maison du Mont au Pretre (as shown in the photograph of the east elevation in Drawing Number 19004-002).

<sup>4</sup> Appendix 1 of the further response statement on the applicant’s behalf.



modern housing estate. But the scale of the proposed extension would be substantial compared with the size of the main house, and here, adjoining a Grade 2 listed building, these considerations have weight.

35. When considering the written criticisms by occupiers of the houses at 1 and 3 Priory Close, allowance has to be made for the fact that they apparently refer to the proposal for which planning permission was originally sought, not the later, amended scheme. Nevertheless I agree with most of those criticisms. The proposed extension would be significantly higher, wider and bulkier than the existing extension, and would have a shape and other features contrasting with the main house as mentioned above. It would not be visually subordinate in the way previously proposed smaller scale schemes might have been.
36. Under Policy HE1 of the Island Plan, proposals which would not preserve or enhance the special or particular interest of a Listed building and its setting will not be approved. The extension would certainly not enhance the architectural or historic interest of the listed building; nor would it meet the lesser policy test by preserving those interests. Policy GD7 on design quality is more generally worded, but in essence refers to the need for a high quality of design which "contributes positively to the distinctiveness of the built context". Policy BE6 states that proposals to extend existing buildings will be approved where (among other things) they would complement the design of adjoining buildings.
37. In summary, the proposed development would create a hotch-potch of shapes and materials which would conflict with the aims of relevant Island Plan policies, most notably Policy HE1 on development affecting listed buildings.
38. I note the comments on the appellant's behalf about the role of the Historic Environment Team, including the argument that the refusal of planning permission on heritage grounds under Policy HE1 was "extremely confusing" because the proposal had been redesigned to address HET objections. Although the appellant's concerns on this matter are understandable, the Department rightly points out that the decision rests with the planning authority.
39. As for confusion caused to the appellant, I have described in paragraphs 20-25 above how in my view confusion was liable to be caused to many people by the extent of changes to the proposal after planning permission was applied for. The time for applicants to change a development proposal should be before an application is finalised, not after. It seems a bit rich to complain about confusion when a proposed development scheme has been (to use the agent's own word) "redesigned" after the application was made. I hope I have made clear that Ms Simmons and her agent are not primarily to blame for this situation, because the problem lies with the way planning applications in Jersey are currently processed and the extent of change allowed during this process.
40. The references to precedents, including illustrations of other properties and materials used elsewhere, do not provide compelling support for this particular proposal. For example, the photographs of what looks like the conversion of an old barn or other agricultural building showing the infilling of an existing large opening with glazing does not mean that similar design features would be appropriate for an extension to this particular 17<sup>th</sup> Century house.
41. Turning to the effect of the proposed development on the residential amenities of neighbouring dwellings or their gardens, I judge that the property most likely to be affected would be Number 2 Priory Close. All parties in this case have made references to an earlier proposal for an extension and other alterations to the

appeal property, which would have received planning permission until an appeal by the occupier of Number 2 resulted in refusal.

42. The earlier proposal was made by a previous owner of the appeal property, and Ms Simmons as the current owner has clearly made considerable efforts to meet the concerns of neighbours. To an extent, those efforts have had positive results, but only by creating other negatives – for example, the introduction of the sloping roof at the west end of the proposed extension to help reduce the visual impact of the development on the occupiers of 3 Priory Close has resulted in what I consider to be a visually unsatisfactory design as explained above.
43. As noted in my description, the house at 2 Priory Close has French window openings in its south elevation and an adjacent garden. The shadow study diagrams submitted for the appellant indicate that in the evenings (taking 5pm as a sample time) in September and early April, much of the garden at Number 2 is likely to be in shadow with or without the proposed extension. In October that applies to all of this garden. There would be times, particularly during March and October, when the French windows at Number 2 would be more overshadowed than already occurs from the existing building.
44. The loss of sunlight caused by the proposed development would detract from the residential amenity of Number 2. However, the test which has to be applied under Policy GD1 is whether the harmful impact on amenity would be unreasonable. As far as sunlight and shadowing is concerned, I judge that the impact would not be unreasonable, so would be within acceptable limits.
45. The visual impact of the proposal would be reduced by the change in land levels giving the house at Number 2 and its garden a comparatively elevated position. As is pointed out for the appellant and shown on Drawing 19004-010 Revision H, allowing for the different land levels the ground floor elevation of the proposed extension would be obscured by the boundary fence. Nevertheless the north-eastern part of the extension would restrict the south-westerly outlook from the rear of Number 2 and the western outlook from its garden. The rear (east) wall of the proposed extension would be in about the same position as the existing extension, though the shape of the proposed structure would be different. The rear part of the proposed extension up to eaves level would be about twice the eaves height of the existing extension. The roof ridge would be set away from the site boundary but would reach to more than three times the height of the existing extension.
46. Whether the proposal would have the “overbearing” impact described in the Department’s first reason for refusal is a matter of judgment. The impact would be less than would have occurred with the proposal subject to the 2017 appeal decision. Any loss of amenity in the vehicle parking area between 1 and 2 Priory Close would be quite limited. The effects of the development on the dwellings and gardens at Numbers 1 and 3 Priory Close would be within acceptable limits. I judge that because of its impact on the outlook from the house and garden at Number 2, the proposal would make this property a less pleasant place to live. On balance I consider that the objection to the development on this ground is justified as a secondary reason for refusing planning permission.
47. I conclude that the decision to refuse planning permission should be confirmed.

## **Possible Conditions**

48. I issued a note before the hearing which reminded the appeal parties of the need to consider possible conditions. As a result two conditions were set out in an email from Mr Townsend of the Department to the appellant's agent, Ms Steedman, and I have based my suggestions below on them. If you are minded to grant planning permission, in addition to the standard conditions covering implementation within 3 years and compliance with approved plans and documents, it would be appropriate to impose Conditions 1 and 2 below. The reason for Condition 1 would be to ensure that the special interest of the listed building is safeguarded. The reason for Condition 2 would be to safeguard protected bat or nesting bird species in accordance with Policies NE1 and NE2 of the Island Plan.
1. No development shall be carried out until details in respect of the following matters have been submitted to and approved in writing by the planning authority. The details shall be implemented as approved.
    - (a) All external materials and finishes including roof materials, rainwater goods, vents and flues.
    - (b) Hard landscaping.
    - (c) Joinery details for all windows and doors.
    - (d) The proposed photovoltaic system and roof windows.
  2. The measures set out in the mitigation strategy report reference MS1036 dated 12 July 2018 shall be implemented before the start of development, continued during the development and thereafter retained. No development shall be begun until an updated schedule of works covering the timing of the approved mitigation and compensation measures has been submitted to and approved by the Department.
49. As regards compliance with plans (standard condition B), it should be noted that approximately 24 plans have been submitted, many of them having become superseded. If permission were to be granted it would be necessary to ensure clarity about which of the submitted plans were being approved.

## **Wording of Grounds of Refusal**

50. I have commented in another recent report to you about an appellant's agent repeatedly using incorrect verb tenses in appeal submissions, to such an extent as to cause confusion and to be blatantly wrong. The Department's Reasons for Refusal in this case (and others) do not set a good example. The first ground mixes future and future conditional verbs ("the proposed extension *will* have an...impact...and *will* result in...[it] *would* unreasonably harm..." [my italics], although all of the second ground for refusal, more appropriately, uses the future conditional. It is clearly illogical to say that something will happen as a result of a development proposal when at the same time permission for it is being refused, and such statements are liable to cause confusion among people not familiar with the planning system. (The situation is of course likely to be different when phrasing refusals to applications for retrospective permission.)
51. Local residents who have submitted comments on this proposal have also used muddled and incorrect verb tenses, which I have corrected as far as feasible in the case summaries. But local residents cannot be expected to demonstrate the same standard as professional advisers and can hardly be criticised when the planning authority does not give a suitable lead.

## **Recommendation**

52. I recommend that the following amendments be made to the stated reasons for refusal:
- a) The reference to loss of sunshine in the Department's first reason for refusal ("and will result in the loss of beneficial late-afternoon sunshine, thereto, at certain times of the year") be deleted;
  - b) The remaining text of the Department's first reason for refusal be modified by changing "will have" to "would have";
  - c) The sequence of the stated reasons for refusal be reversed to reflect my comments about the secondary weight of the objection stated in the Department's first reason for refusal.
53. Subject to those amendments, I recommend that the appeal be dismissed and that the decision to refuse planning permission be confirmed.

*G F Self*

Inspector

15 July 2021