

PLANNING AND BUILDING (JERSEY) LAW 2002

Appeal under Article 108 against a decision made under Article 19 to refuse 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

Appellants:

Melrose Homes Ltd.

Application reference number and date:

P/2021/1782 dated 22 December 2021

Decision Notice date:

20 October 2022

Site address:

Melrose, La Route Orange, St. Brelade, JE3 8GQ

Development proposed:

"Demolish existing dwelling and associated outbuildings. Construct 7 No. 4 bed and 4 No. 3 bed dwellings with associated parking and landscaping. Create new vehicular access onto La Route Orange."

Inspector's site visit date:

7 February 2023

Hearing date:

8 February 2023

Introduction

1. This is an appeal against the Planning Committee's decision to refuse planning permission for the development described above. The application was recommended for approval by the Infrastructure, Housing and Environment Department.
2. The decision notice records that permission was refused for the following reasons:

- “1. The proposed development, by virtue of its design and layout, would result in over-development of the site and an adverse impact upon the character and appearance of the landscape in this location. The proposal is therefore contrary to Policies GD1, GD6, H1 and H2 of the adopted Bridging Island Plan 2022.
2. The proposed site layout only contains two formal visitor parking spaces, which is considered to be insufficient to serve a development of eleven dwellings. The proposal is therefore contrary to Policy TT4 of the adopted Bridging Island Plan 2022.”

The site and its surroundings

3. The site is in a residential location on the north side of La Route Orange and consists of the detached bungalow known as Melrose and its range of outbuildings. The bungalow is centrally located within extensive grounds that have many trees, most of which are along the boundaries. The site is in the built-up area of Les Quennevais as defined in the Bridging Island Plan.
4. La Route Orange is a main road which is part of the Primary Route Network and a bus route. The site has its own access onto the road. La Moye School is a short distance to the west, beyond which is more housing and a local convenience store. A dwelling, Blanches Banques, is on the eastern side of the site; planning permissions have been granted in recent years for an additional dwelling to be built in some of the rear gardens of the row of dwellings containing Blanches Banques, including one at Blanches Banques itself. Further east, the retail and commercial centre at Red Houses is within walking distance of the site.

The proposed development

5. The bungalow and its outbuildings would be demolished. A mixture of eleven 2-storey and 2½-storey detached houses (including detached houses linked by their garages) would be built around a loop road containing a central shared greenspace. The existing access onto La Route Orange would be closed and replaced by a new access in a central position on the frontage, which would have better highway visibility. With one exception, each house would have two parking spaces, one in its garage and one on its forecourt; the exception would have four spaces, a double garage and two spaces on its forecourt. A separate area would be set aside for two visitor parking spaces for the development as a whole.
6. A landscaping scheme has been submitted, showing the trees that would be retained and the new planting and hard landscaping that would take place. A Species Protection and Enhancement Plan has also been submitted.

Summaries of representations made by the parties and interested persons

7. The appellants maintain that the proposed development would be in accordance with the strategic policies in the Bridging Island Plan, would make optimum use of the site and would deliver much-needed family housing in a sustainable location. The design and layout of the development would respect the character and appearance of the locality and comply with housing standards, and there would not be any unreasonable harm to neighbours' amenities. Two visitor parking spaces would be sufficient here in view of the

site's high level of accessibility by means other than the car. The demolition of the house is justified within Policy GD5.

8. The Department state that the development would be highly visible from La Route Orange. They note that many trees would be removed, including some that are adjacent to the road, although they acknowledge that as many new trees would be planted, including some on the road frontage. They point out that the majority of the dwellings would be 2½-storeys high due to the accommodation in the roof space. They maintain that the height of the dwellings and their proximity to the road, the density of the development and the overall lack of green space within it would be harmful to the landscape character and appearance of the area.
9. The Department refer to the relatively high occupancy that the development would have and the consequential number of visitors that would require parking space. According to the Department, the adopted Parking Guidelines of 1988 indicate that 3-4 visitor parking spaces are required, although these Guidelines are acknowledged to be out-dated.
10. A substantial number of representations have been received from interested persons about the proposed development, with those in support of it being significantly more than those expressing concerns or objections. The supporters stress the need for more housing and point to the suitability of the site and its proximity to local facilities. The objectors raise concerns about the density of the development and its impact on the street scene, and about trees, play space, overflow parking and the effect on Blanchés Banques' amenities.

Inspector's assessments

Strategic policy considerations

11. Policy SP1 (Responding to climate change) of the Bridging Island Plan directs growth to areas of previously-developed land and locations that minimise the need to travel by private vehicle.
12. The second paragraph on page 40 of the Plan reads:

"Les Quennevais [which is defined in the footnote to page 40 as extending to and embracing La Moye, Le Saut Falluet, La Petite Route des Mielles, Tabor Heights and Park Estate] has developed as a secondary urban centre in the island, providing much residential accommodation supported by a good range of community, education and sports facilities, and a secondary island retail centre. As one of the island's main urban centres, Les Quennevais can continue to provide a focus for new development enabling investment and regeneration, and being supported as a sustainable alternative place for new development to happen, which might otherwise be located in St Helier by encouraging the redevelopment of already developed land and buildings at higher densities that are appropriate to the character of the area"

The final paragraph on page 41 states:

"In seeking to secure the most efficient and effective use of land, the plan encourages and enables development at optimum levels of density. As a small island, with significant pressure and competition for the use of land, it is

important that planning policies avoid homes being built at low densities in the island's built-up areas, making optimal use of a site's development potential."

13. Accordingly:

Policy SP2 of the Plan (Spatial strategy) states:

"Development will be concentrated within the island's built-up area, as defined on the proposals map. In particular, development will be focused within the island's primary main urban centre of Town which will accommodate much of the island's development needs. Development will also be focused within the secondary main urban centre of Les Quennevais." The Places Policy PL2 (Les Quennevais) indicates that the built-up area of Les Quennevais is the island's secondary urban area and is expected to act as a focus for growth and to help to accommodate the need for residential development.

Strategic Policy SP3 (Placemaking) states:

"All development must reflect and enhance the unique character and function of the place where it is located. New development must contribute to the creation of aesthetically pleasing, safe and durable places that positively influence community health and wellbeing outcomes ..." The Policy adds that new development will be supported where it achieves a list of eight outcomes, which are assessed in this report as far as they are relevant to the development proposed.

14. Although the strategy states that the built-up area of Les Quennevais is expected "to act as a focus for growth and to help to accommodate the need for residential development", the Plan does not allocate any land to fulfil this objective and no undeveloped land suitable for new residential development has so far been identified in the built-up area. Instead, the implementation of the strategy is dependent on 'windfall sites' arising, where existing developed sites will be redeveloped at a higher density. The inescapable outcome is that changes will occur to some existing features of the built-up area and in the intensity of some of its existing residential development.
15. The appeal site is a 'windfall' site in a sustainable location with good access by walking, cycling and public transport to a range of services and facilities. Its redevelopment at a higher density is strongly supported by the strategic policies in the Plan, subject to consideration of the effect of the development proposed on landscape character and appearance, the adequacy of the provision to be made for visitor parking and the amenity of Blanchés Banques.

"Over-development"

16. The decision notice states that the proposed development would result in "over-development of the site". The term "over-development" has not been defined for planning purposes in Jersey, but it is defined in the English Planning Portal glossary as: "An amount of development (for example, the quantity of buildings or intensity of use) that is excessive in terms of demands on infrastructure and services, or impact on local amenity and character."
17. I have applied this definition in my assessments of the proposed development. There is no indication that the proposed development would make demands on infrastructure or services that could not be satisfactorily accommodated;

the issues relate to impact on local amenity and character and, as indicated in paragraph 15 above, concern landscape character and appearance, visitor parking and the amenity of Blanches Banques.

*The effect of the proposed development on landscape character and appearance.
Visitor car parking provision*

18. The bungalow and its outbuildings have no particular architectural or historic merit and are in a poor condition. It has been accepted that the reports submitted by the appellants demonstrate that their demolition is supported by Policy GD5 (Demolition and replacement of buildings), on the grounds that it would not be economically viable to repair or refurbish the property and that the proposed houses represent a more sustainable use of the land.
19. There are (at the date of this report) no adopted minimum residential density standards for redevelopment proposals in the built-up area, but Policy H2 (Housing density) indicates that a "positive design-led approach for the provision of new homes will be encouraged at all sites in the island's built-up area to ensure optimum efficiency in the use of land". The policy sets out the factors that will be taken into account in determining the appropriate density for any individual site. These factors are: "the quality of design, relative to the nature of the site and its local context, and the character, capacity and sensitivity of the area to accommodate the development"; "the quality, type and mix of homes being created and its contribution to the creation of sustainable communities"; "the level of accessibility by walking, cycling and public transport, to a range of services and facilities, including the capacity of existing local infrastructure to accommodate the development"; and "the quantity and quality of amenity space and parking, including visitor parking.
20. The proposed development's layout around an internal access road with a central greenspace would be conventional and would make efficient use of the site. The design of the houses and the materials to be used would replicate examples that have recently been employed successfully in the locality. The density of the development would clearly be much greater than the houses in the area that occupy substantial plots, but would be similar to housing development further west in Le Clos Orange. The trend in recent years has been to allow housing development at a greater density in this location, examples being the rear garden permissions granted in the row to the east. The policies in the Bridging Island Plan indicate that this trend should be continued in order to provide much-needed homes and to ensure optimum land use efficiency in this highly-accessible built-up area.
21. There is no uniform building line on La Route Orange. The proposed development would be further forward than the row of dwellings to the east, but would be consistent with the nearest building to the west and not as far forward as the outbuilding to the east.
22. At present, the site is screened from the road to a greater extent than other nearby development because it has a high roadside boundary wall and many trees close to this boundary. There is roadside boundary screening on some nearby sites but much of the existing development here is open to view from the road, examples being the school's extensive parking area which is located alongside the road and the modern housing development to the west of it that is higher than other residential development in this area and is open to view from the road over its large forecourt parking area.

23. The Department's arboriculture assessment indicates that many trees on the site have not been well-maintained and are of poor quality and that their removal should be accepted. Only three key trees would be retained – a maple, a tree of heaven and a copper beech. The Landscape Site Plan indicates that new trees would be planted along site boundaries, around the loop road and in the greenspace, and that boundary hedging and a variety of shrubs would be planted. The blockwork roadside wall would be replaced by a more attractive granite wall of a similar height. Overall, the site would inevitably appear less verdant than it does at present: this impact should be evaluated alongside the benefits that the proposed development would achieve.
24. Each dwelling would meet the relevant space standards relating to house size and garden space. Policy CI8 (Space for children and play) of the Plan also applies to the proposed development. This states that proposals for more than ten family homes "are required to provide appropriate communal space for play on-site, unless it is agreed that there are exceptional circumstances where an off-site contribution may be permitted; and/or when an off-site contribution will lead to a substantial betterment in provision and will be within five minutes safe walking distance, or 500m from the site". Communal space, as opposed to garden space, would be limited to the central greenspace in the development, but proposals have been put forward with the agreement of La Moye School for a financial contribution to be made towards the renewal of the school's play park equipment. The objectives of Policy CI8 would thereby be met .
25. Policy TT4 (Provision of off-street parking) indicates that the proposed development will only be supported if it provides an appropriate level of off-street parking that accords with adopted parking standards. The supporting text to Policy TT4 states on page 274: "Where an area is well served by sustainable and active transport modes, more restrictive parking standards can be used to promote a more effective use of land and a better-quality environment, where vehicle dominance is reduced"; ... "These standards must be set within a broader policy framework, as part of a holistic approach to parking and transport networks, which target a decrease in the use and ownership of private vehicles"; ... "any deviation away from adopted parking standards will need to demonstrate that this would not cause problems of indiscriminate and inappropriate parking in the locality".
26. The 1988 Parking Guidelines are not intended to be rigidly followed in all circumstances and it was intended that they would be kept under periodic review (see the Introduction to the Guidelines). Reviews have not taken place. The Guidelines' General Notes for Application state that modifications may be necessary to achieve overriding planning policies. In this instance, the Guidelines indicate a visitor parking requirement of "1 space/3 (2-5) dwellings", which the Department interpret as a requirement for three to four spaces for the eleven dwellings proposed and the appellants interpret as a requirement for three. Two are proposed, but no evidence has been put forward to suggest that the shortfall of one, possibly two, could lead to parking problems in the locality. Taking into account the fact that the site is readily accessible by means other than the car and giving due weight to the broader policy framework of the Bridging Island Plan, I consider that two would be acceptable.

Effect of the proposed development on the amenity of Blanches Banques

27. Blanches Banques is an elongated single-storey dwelling with accommodation in the roof space and numerous rooflights. It has been built on a north-south alignment with its principal elevations at each end and its western elevation towards the appeal site. A track between this elevation and the appeal site gives access to the rear garden and to the site of the approved new dwelling. Parking and garaging facilities for both are between the front of Blanches Banques and the road.
28. The layout of the proposed development shows that four of the new dwellings would have a boundary with the western boundary of Blanches Banques. The boundary would be fenced throughout. It would be landscaped where it is next to the side of Blanches Banques itself and its rear garden, and two of the retained trees would be here.
29. The occupiers of Blanches Banques have drawn particular attention to their concerns about overlooking, loss of light and overbearing impact resulting from the four dwellings referred to. They are above all concerned about the siting of the house in the south-east corner of the site, which would be forward of the front of their dwelling, further east than the three other new dwellings on this side and next to their front forecourt.
30. Policy GD1 (Managing the health and wellbeing impact of new development) applies to the development proposed. This states:

“All development proposals must be considered in relation to their potential health, wellbeing and wider amenity impacts, and will only be supported where:

 1. the development will not unreasonably harm the amenities of occupants and neighbouring uses, including those of nearby residents, and in particular, will not:
 - a. create a sense of overbearing or oppressive enclosure;
 - b. unreasonably affect the level of privacy to buildings and land that owners and occupiers might expect to enjoy;
 - c. unreasonably affect the level of sunlight and daylight to buildings and land that owners and occupiers might expect to enjoy; ...”
31. I have considered the provisions of this policy in detail in so far as it relates to the four dwellings referred to. The outlook from the side and rear of Blanches Banques would be affected by the three new dwellings referred to above. There would however be adequate separation distances between the buildings here, with gardens in between and fencing and new landscaping on the boundary, as well as the retention of the two trees. The extent of any overlooking here would not be unusual for a residential area and, in particular, it is improbable that there would be a view into the rooms served by the roof lights on the western side of Blanches Banques. I do not consider that the impacts of these three dwellings would amount to “unreasonable harm” to amenities within the meaning of Policy GD1, since this is a built-up area where residential redevelopment at a higher density is supported by the policies in the Plan.

32. The impact of the new dwelling in the south-eastern corner of the site would be far more serious. From the rear first-floor bedroom window and the rear rooflights of this dwelling there would be an unobstructed angled view at close proximity into the bedroom in the gable end of Blanches Blanques. This would unreasonably affect the level of privacy that the occupiers of Blanches Blanques might expect to enjoy, even in this built-up area. In addition, the high side wall of this new dwelling would be very close to the boundary; the existing tree cover would be removed without any space for new planting and none is proposed. The height and proximity of this side wall would therefore have an overbearing impact on the enjoyment of the forecourt at the front of Blanches Banques.
33. For the reasons given in paragraph 32, the proposed development would be in conflict with Policy GD1 and would also constitute over-development, as defined in paragraph 16 above, because of its impact on local amenity.

Planning conditions and planning obligation agreements

34. It was accepted at the hearing that if the Minister decides to grant planning permission a planning obligation should be entered into in relation to contributions towards a bus shelter, improved play equipment at La Moye School and public artwork, and that planning conditions should be imposed to deal with the other matters referred to in the Planning Officer's Report to the Committee, with additions covering obscure glazing, drainage and compliance with Policy ME1 (20% reduction in target energy rate for new development).

Inspector's conclusion

35. But for the impact on amenity described in paragraph 32 above, I would have concluded on balance that the proposed development would be in accordance with the Bridging Island Plan and that there would be insufficient justification for departing from the Plan's provisions. The impact described in paragraph 32 is however in my view sufficiently serious to warrant withholding planning permission for the proposed development because of the manner in which it has been designed and laid out in its south-eastern corner, notwithstanding the benefits that would otherwise ensue from the development as a whole. I have therefore recommended that planning permission should be refused.

Inspector's recommendations

36. I recommend that the appeal is dismissed and that planning permission is refused for the proposed development because of the impact of the dwelling proposed for the south-eastern corner of the site on the amenity of the occupiers of the adjoining dwelling, Blanches Banques, which would be contrary to Policy GD1 of the Bridging Island Plan.
37. If, however, the Minister were to decide to grant planning permission, I recommend that this should be made subject to the entering into, within 6 months of the date of the Minister's decision, of a suitable planning obligation under Article 25 of the Planning and Building (Jersey) Law 2002 (a) to pay £11,000 towards the provision of a bus shelter, (b) to pay £10,000 towards the provision of improved play equipment at the La Moye School and (c) to make a Percentage for Art contribution in accordance with an agreed Public Art Statement and that planning conditions should be imposed to deal with the other conditions referred to in the Planning Officer's Report to the Committee,

with additional conditions identifying the windows on the approved plans that are to be fitted with obscure glazing, requiring completion of the development in accordance with the approved drainage plan and requiring compliance with Policy ME1 (20% reduction in target energy rate for new development).

Dated 4 March 2023

D.A.Hainsworth
Inspector