

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

by **N McGurk** BSc (Hons) MCD MBA MRTPI,  
an Inspector appointed by the Judicial Greffe

Site visit made on 6 March 2023. Hearing held on 8 March 2023.

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### **Reference: P/2022/0755**

### **Meadow View, Le Douet Farm, Le Mont de la Greve de Lecq, St Ouen, JE3 2DY**

- The appeal is made under Article 108 against a decision made under Article 19 to refuse planning permission.
  - The appeal is made by Mr Terence Graham against the decision of the States of Jersey.
  - The application Ref P/2022/0874 by Steve Thorne, dated 25 July 2022, was refused by notice dated 9 November 2022.
  - The proposed development is retrospective: convert ancillary residential building into dwelling.
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### **Recommendation**

1. I recommend that the appeal be dismissed.

### **Procedural Matters**

2. The Bridging Island Plan, adopted on the 25<sup>th</sup> March 2022, is referred to in this Report as "*the Island Plan*."
  3. This Report refers to the Planning Department as "the Department."
  4. The electronic application form does not include a dated declaration. The Department's Officer Assessment Sheet shows an application "Valid Date" of 25 July 2022 and this is the date referenced in the information set out above.
  5. The development the subject of this appeal has already taken place and consequently, this Report refers to "the development" (not "the proposed development").
  6. The appellant considers that the Island Plan is incorrectly drafted and sets out that States Members consider the adopted Island Plan to be incorrect and in need of revision. The First Minister spoke in this regard at the Public Hearing.
  7. As far as I am aware, no formal process to revise the Island Plan is currently taking place and it is not anticipated that the Island Plan will be revised until 2025.
  8. The Island Plan is an adopted planning document. Under Jersey's plan-led system, the Island Plan is the primary consideration for planning-related decisions and this Report makes a recommendation to the Minister on the basis of Jersey's statutory plan-led system.
  9. Notwithstanding all of the this, even if the Island Plan had been revised in the manner referred to by the appellant, taking into account
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States Amendment 92 - which it has not – it is not the case that this would simply result in the development the subject of this appeal being allowed.

10. As set out elsewhere in this Report, the Island Plan must be considered as a whole and this is not something that would be any different had the Island Plan been revised in the way that the appellant would like it to have been revised, which, in any case, it has not.
11. The development the subject of this appeal is located at a site where planning applications were granted in respect of construction of a pool house in 2015<sup>1</sup> and in 2016<sup>2</sup>.
12. An application to convert an ancillary building into a two-bedroom residential unit was withdrawn<sup>3</sup>. A subsequent application<sup>4</sup> for the change of use of an ancillary building to form a separate residential unit was refused in June 2021.
13. The description of development is taken from the application form. The appellant describes the development the subject of this appeal as an “ancillary residential building.” The appellant states that, in 2019, the Department advised that the pool house could be used to accommodate guests, therefore as a guest unit.
14. As per the recent planning history of the site referred to above, the most recent planning permission relating to the site upon which the development is sited was for a pool house ancillary to Meadow View.
15. The appellant has asked that the Minister and I are notified of a “clear conflict.” The appellant states that the Minister normally reviews Inspector’s Reports with a member of the Department’s Strategic Policy Team and that the Strategic Policy Team disputed the appellant’s case and appeared at the Public Hearing.
16. As this Report was submitted after this notification, no such conflict has arisen.

### **The Case for the Appellant**

17. The appellant considers that Policies SP2, PL5 and H9 are incorrectly drafted in the Island Plan, not as adopted by the States Amendment 92 and that changes should be made to the Island Plan (see above).
18. The appellant considers that the proposal complies with the Island Plan.
19. The appellant states that the appeal site is not unusually constrained and that the proposed dwelling has adequate amenity space.
20. The appellant states that the amenity provided for the proposed dwelling and its neighbours is acceptable, that there is clearly no harm to Meadow View and that the building the subject of this appeal already exists and does not cause a harmful impact to Le Bel. The appellant states that the outdoor area is used as a garden for Meadow View, so there is no material difference to how it would be used for the proposed dwelling and which, in any case, is a normal relationship between dwellings.

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<sup>1</sup> Reference: RP/2016/0414.

<sup>2</sup> Reference: P/2015/0116.

<sup>3</sup> Reference: P/2018/1762.

<sup>4</sup> Reference: P/2020/1811.

21. The appellant notes that the pedestrian access to the site is too narrow for a wheelchair user but states that the pedestrian accessway can be widened by chamfering the corner of the garage and that this could easily be carried out as a minor amendment to the original application for the garage.

22. The appellant states that the parking arrangement is not unusual.

### **The Case for the Department**

23. The Department states that the principle of the development is not acceptable and that the proposal is not justified in this location. The Department note that the appeal site is outside any built-up area and is located within the Protected Coastal Area, where new residential development is only acceptable in limited circumstances.

24. The Department states that the appeal site is constrained and that a separate dwelling in this location would be contrary to local character. The Department considers that placing the parking to serve the dwelling in front of another dwelling is not a well-designed solution.

25. The Department states that the appeal site is close to neighbouring properties and that a separate dwelling in this location would result in an oppressive and enclosed living environment for future occupiers and would impact on the existing amenity of neighbours.

26. The Department states that the site is accessed by a narrow pedestrian walkway from a parking area in front of Meadow View and that the access arrangement does not result in an appropriate standard of inclusive and accessible design.

### **Other Comments**

27. National Trust Jersey. The National Trust Jersey states that the assertion that the pool house could be used as a guest unit without the need for planning permission was not accepted previously and that it is to be questioned how the approved pool house of 67.2 sqm has turned into a two-bedroom house of 86.5 sqm.

28. The National Trust Jersey states that the appellant's interpretation of Policy SP2 might be considered acceptable, but would question whether it was the intention of the Island Plan to regularise previous breaches of planning policy.

29. Edward Grimshaw. Mr Grimshaw states that there is no planning permission for a change from pool house to guest accommodation, that the proposed dwelling is extremely close to his property and that anyone living there will be within earshot of the house and garden and that privacy will be affected.

30. First Minister. During the course of the Public Hearing, the First Minister drew attention to the need to provide for more homes across the Island, especially for families, including through encouraging the re-use of buildings outside the built-up area, as intended by States Amendment 92.

## **Main Issues**

31. The main issues in this case are the effect of the development on the character and appearance of the area; whether the development comprises sustainable development, having regard to the Policies of the Island Plan; whether the development would provide for acceptable living conditions for future occupiers, with regards to outlook and access; and the effect of the development on the living conditions of neighbouring occupiers, with regards to noise and disturbance.

## **Reasons**

### *Character and appearance*

32. The appeal site comprises an irregular area of land fronting La Rue de la Ville Bagot within part of the garden area of Meadow View, an extended dwelling.
33. Meadow View is located within the Protected Coastal Area. The surrounding area is characterised by the presence of detached dwellings within comfortable garden plots, surrounded by countryside. This and the presence of trees affords the area a notably green and spacious character.
34. The development the subject of this appeal has a lodge-type appearance, not dissimilar to lodges typically found in a holiday lodge park. It has a small patio-style area outside glazed doors and is surrounded by hedgerows and/or boundary walls.
35. The development is located between Meadow View to the north and Le Bel, a bungalow, to the south. It is positioned adjacent to a large modern garage serving Meadow View, which is situated between the host dwelling and the development.
36. The lodge-type building is accessed via a narrow corridor between the large modern garage and a boundary wall.
37. During my site visit, I observed that the height, angle, bulk and immediate proximity of the large modern garage combines with the narrow, off-set access, which itself proceeds through a narrow corridor, to result in the development appearing awkward in its surroundings. In this regard, the unusual access appears contrived and of poorly designed.
38. The harmful impact of the above is exacerbated as a result of the access appearing incongruous within an area where no such form of main access to a dwelling exists.
39. Further to the above, during my site visit, I observed that whilst a number of dwellings in the wider area have outbuildings, these appear ancillary to the host property and tend to sit comfortably within substantial garden plots.
40. By way of contrast, the development appears domestic in its own right, rather than as an ancillary building and to some considerable degree, “squeezed in” amongst a wide range of buildings and extended buildings, resulting in this part of the Protected Coastal Area appearing unduly urbanised and out of character with its surroundings.

41. Seen together with the poorly derived, contrived form of access, this results in a visual appearance that is out of keeping with the area's spacious qualities and presents a development that jars with its surroundings.
42. Taking all of the above into account, I find that the development harms the character and appearance of the area, contrary to Island Plan Policies SP2, SP3, SP4, PL5, NE3 and H9, which together amongst other things seek to protect local character.

*Sustainable development*

43. The Island Plan recognises the urgent need to provide significant new housing on the Island and seeks to achieve this by setting out a land use planning policy framework focused upon directing the delivery of new housing to Jersey's built-up area. Outside the built-up area, the development of new housing is restricted.
44. The appeal site is located in the Protected Coastal Area, to which the Island Plan affords the highest level of protection in Jersey.
45. The development appears as a two-bedroom lodge-type dwelling and is located on a site with planning permission for a pool house ancillary to Meadow View.
46. Island Plan Policy H9 ("*Housing outside the built-up area*") seeks to prevent residential development in the countryside other than in circumstances relating to extensions, to the use of traditional farm buildings, to the conversion of employment buildings and to the redevelopment of existing dwellings and buildings in employment use.
47. The development does not meet any of the exceptional circumstances set out in Policy H9. Rather, it would result in the development of a new house in the most protected part of the Island, contrary to the relevant housing Policy of the Island Plan.
48. Whilst the proposal would result in an additional dwelling, thus making a small contribution to meeting the Island's housing needs, it would do so in a manner that would conflict with the Island Plan's spatial strategy, identified in Island Plan Policy SP2 ("*Spatial strategy*"), of concentrating development within the Island's built-up area and only supporting development elsewhere that is:
- "...appropriate, justified and necessary in its location..."*
49. Island Plan Policy PL5 ("*Countryside, coast and marine environment*") states that, in the Protected Coastal Area, development proposals should:
- "...protect or improve the special landscape and seascape character..."*
50. I have found above that the development results in significant harm to local character and consequently, the development is in direct conflict with this part of Island Plan Policy PL5.
51. Whilst I am mindful that Policy PL5 does lend support to some forms of residential development in the Protected Coastal Area, it is a fundamental principle of land use planning in Jersey that the Policies of the Island Plan are considered as a whole.

52. Policy PL5 does not support forms of development, such as that the subject of this appeal, which fail to protect or improve the special character or qualities of the Protected Coastal Area. The development is contrary to Island Plan Policy PL5 and it is not *appropriate* (my emphasis, noting Island Plan Policy SP2, referred to above) to the Protected Coastal Area, therefore failing to meet the above requirements of Island Plan Policy SP2.
53. Taking this and all of the above into account, I find that the development does not comprise sustainable development. The development is contrary to Island Plan Policies SP1, SP2, PL5 and H9, which together amongst other things, seek to ensure sustainable development across Jersey.

*Living conditions*

54. The development has a small patio/garden area to one end, providing private outdoor amenity space, as well as narrow areas of land around the structure. There are no windows to either side of the development and consequently, the outlook from the lodge-type structure is somewhat constrained, being limited to windows at either end.
55. During my site visit, I observed that, in general, dwellings in the area tend to have a wide variety of outlooks to several directions, providing occupiers with scope for near and distant views. A reasonable expectation of being able to enjoy aspects of one's surroundings is a characteristic of countryside living. The evidently constrained nature of the development site does, to some degree, limit the ability of the occupiers of the development to do this.
56. This is not a factor which in itself results in such unacceptable living conditions as to warrant the dismissal of the appeal, but it is one of a number of constraints arising from the unusual and constrained nature of the development and the appeal site.
57. A further constraint arises from the effect of the somewhat awkward parking arrangement, whereby occupiers of the development would need to park their vehicles directly in front of and immediately adjacent to the front of what would be another dwelling - Meadow View. This would require future occupiers of the development to reach the development by weaving their way past a large garage and along a narrow corridor between the garage and the boundary wall.
58. It would also result in an awkward access arrangement, whereby vehicles wishing to occupy the parking spaces would need to either reverse onto or from the highway, or manoeuvre directly in front of the opening to the large garage to Meadow View; and for vehicles using the garage to Meadow View to enter or access the garage directly across the access to the parking spaces, or to manoeuvre directly between the parking spaces and the highway.
59. This awkward arrangement is a direct result of the irregular-shaped development site and a development which appears contrived to squeeze in uses, regardless of useability.
60. Island Plan Policy SP3 ("*Placemaking*") requires new development to contribute to the creation of aesthetically pleasing, safe and durable places that positively influence community health and wellbeing outcomes. In order to achieve this, Policy SP3 requires development to achieve:

*"...the highest standards of accessible and inclusive design..."*

61. For the reasons set out above, the development does not achieve this.
62. In addition to the above, the development is located in very close proximity to Meadow View's neighbouring dwelling, Le Bel.
63. The development's patio/garden area forms its outdoor amenity area. Given the constrained nature of the site and the limited outlook from inside the development, it is reasonable to anticipate that the patio/garden area would be actively used on a frequent and somewhat intense basis. Indeed, the lodge-type structure has been designed such that glazed doors open directly out onto the patio/garden area.
64. The siting of the development results in the patio/garden area being situated such that it is adjacent to the front of Le Bel. I find that this would result in a somewhat uncomfortable relationship, such that the multiple activities normally associated with the use of a private garden would be focused within a small, constrained area, close to Le Bel's main entrance.
65. Given the close proximity of the development to Le Bel, this would give rise to the potential for noise and disturbance to arise at any time of day or night. Whilst the boundary between the development and Le Bel mitigates the impact of this to some degree, it comprises a further factor arising from the unusual and constrained nature of the development.
66. Taking all of the above into account, I do not consider that the factors identified, either individually or cumulatively, are so significant that they would result in unacceptable living conditions for future occupiers having regard to outlook and access, or in significant harm to neighbouring occupiers, having regard to noise and disturbance, taking into account Island Plan Policies SP3 and H1, which together amongst other things seek to protect residential amenity. However, they are factors that, together, add weight to my recommendation below.

### **Other Matters**

67. I note above that the Island Plan, as adopted, is the primary consideration for planning-related decisions. The Island Plan must be considered as a whole and it is clear to me, as set out above, that the development is contrary to the Island Plan.
68. Whilst I have given consideration to the appellant's case, the fact remains that there is very limited scope in the Island Plan for the provision of new housing in Jersey's Protected Coastal Area.
69. This is a purposeful approach by the recently adopted Island Plan – the barrier to new residential development in the Protected Coastal Area is set at a very high level in order to prevent all but limited new housing.
70. Whilst the appellant considers that the Island Plan should not have been adopted in the way that it has, the fact remains that the adopted Island Plan is exactly that.

71. As an aside and notwithstanding the above, it is my consideration that even if the changes that the appellant considers should be made to the Island Plan *were* made - and noting that they have not been - then the development the subject of this appeal would still be contrary to the Island Plan when considered as a whole.

72. For the reasons set out in the Report, the proposal harms local character and does not comprise sustainable development, resulting in the recommendation below.

**Conclusion**

73. For the reasons set out, I recommend to the Minister that the appeal be dismissed.

Nigel McGurk BSC(HONS) MCD MBA MRTPI

PLANNING INSPECTOR