

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

Appellant:

James Lane

Application reference number and date:

RW/2022/1471 dated 9 December 2022

Decision Notice date:

30 January 2023

Site address:

Sandpipers, Le Boulevard, St Brelade JE3 8AB

Development proposed:

"Convert existing 5no. dormer windows to 3no. catslide dormer windows to North-East elevation".

Inspector's site visit date:

3 May 2023

Introduction

1. This is an appeal against the Chief Officer's decision to refuse planning permission for the development described above. The appeal was dealt with by way of written representations in accordance with Article 114(2)(a).
2. The decision notice records that permission was refused for the following reasons:
 - "1. The proposed catslide dormer windows, in virtue of their designs, fail to conserve, protect and contribute positively to the distinctiveness of the site's surrounding built environment, landscape and wider setting. This is contrary to policy GD6, of the Adopted Bridging Island Plan 2022, which requires that all developments be of a high quality of design.

2. The proposed catslide dormer windows, in virtue of their designs, fail to protect the special interests of several nearby Listed Buildings and Places (St. Aubin's Harbour, Old Court House and Rose Cottage). This is contrary to policy HE1, of the Adopted Bridging Island Plan 2022, which requires that all developments protect the special interests of Listed Buildings, and Places, as well as their settings."

[NB Describing policies in the Bridging Island Plan as imposing requirements on development is incorrect. The Plan states in its Introduction that the policies exist "to guide development" and the wording of the policies reflects this approach.]

The site and its surroundings and the proposed development

3. Sandpipers is a dwelling that is set back from Le Boulevard where it runs alongside the harbour at St. Aubin. It adjoins The Old Court House Inn on one side and Rose Cottage, a dwelling, on the other side. The location is in the built-up area for planning purposes.
4. The original part of Sandpipers is two storeys high with a pitched roof; further residential accommodation has since been provided by a 1½-storey addition at the side of the front courtyard and by a loft conversion that has a row of five box dormers on the front roof. The central box dormer is the largest and serves a bathroom; the four smaller box dormers (two on each side) serve two bedrooms. The proposed development would replace all of them by three catslide dormers serving the same three rooms, with the central dormer now becoming the smallest dormer.

Policies GD6 and HE1 of the Bridging Island Plan and the listed buildings and places referred to

5. Policy GD6 relates to "Design Quality". The provisions of the policy that are relevant to the appeal are as follows:

" A high quality of design that conserves, protects and contributes positively to the distinctiveness of the built environment, landscape and wider setting will be sought in all developments, in accord with the principles of good design.

Development will be supported where it can be demonstrated that the design successfully addresses the following key principles:

1. the relationship of the development to existing buildings, settlement form and distinctive characteristics of a place having regard to the layout, form and scale (height, massing, density) of the development;
 2. the use of materials, details, colours, finishes, signs and illumination relative to the character and identity of the area; and its townscape or landscape setting;
 3. its impact upon neighbouring uses, including land and buildings and the public realm;" ...
6. Policy HE1 is entitled "Protecting listed buildings and places, and their settings". It states: "Proposals that could affect a listed building, or place, or

its setting, must protect its special interest. All proposals should seek to improve the significance of listed buildings and places". The policy indicates that proposals that do not protect the setting of a listed building will not be accepted unless there will be a public benefit. The Plan states on page 135: "The setting of a listed building or place relates to its surroundings, and the way in which it is understood, appreciated and experienced by people within its context."

7. The listed buildings and places referred to in the decision notice are (i) St. Aubin's Harbour, (ii) the adjoining property, The Old Court House Inn, and (iii) the adjoining property, Rose Cottage.
8. St. Aubin's Harbour is listed Grade 1, HER Reference BR0282. Its special interest is described in the listing particulars as architectural and historical. The listing covers the harbour itself and encompasses the harbour arms and various other harbour structures, "including the granite seawall that forms the landward side along Le Boulevard".
9. The Old Court House Inn is listed Grade 2, HER Reference BR0180. Its special interest is described in the listing particulars as architectural and historical and its context as "One of a number of fine C17/C18 merchants houses located along Le Mont du Boulevard". Its significance is recorded as "A rare and exceptional dated example 1611 of a merchants house, retaining many original architectural and historic features including plan form, accolade lintels, dated fireplaces, good beams, joists and one of the finest tourelle stairs on the island, with paired doorways at each level. Believed to have housed the Admiralty Prize Court Room."
10. Rose Cottage is listed as Mariners, Grade 4, HER Reference BR0285. Its special interest is described in the listing particulars as architectural and historical. Its significance is stated as: "A vernacular townhouse of C18 date, although altered in C19 & C20, retaining exterior form and contributing to the scenic value of St Aubin's harbour." It is described in the particulars as: "2 storeys, 4 bay. Pantile roof with rendered stacks, painted granite walls. C20 extension obscures ground floor. 1st floor has 4 tall window openings with C20 windows. 2 dormers with 2-light casements. The interior of the property is not of interest. C18 with C19 & C20 alterations." (External works were taking place at this property at the time of my visit that may affect this description.)
11. There are in addition other listed buildings in the row of properties extending north-westwards from The Old Court House Inn along Le Boulevard, but they do not include Sandpipers.

The case for the Infrastructure and Environment Department

12. The Department recognise that the existing dormers "are not satisfactory, both in their design and in their practicality" but assert that the proposed replacements "would see the facilitation of a poor window hierarchy which would adversely impact the aesthetic of the dwelling." They are not considered by the Department "to be an appropriate form of improvement to the current dormer arrangement" and therefore to be contrary to Policy GD6.
13. The decision took into account the assessment made by the Department's Historic Environment Team. This acknowledges that the existing dormers are

“overscaled”, but states that Sandpipers, whilst not a listed building, “lies in a very sensitive heritage setting” (as described above) and that the proposed development would add “an unacceptable level of bulk to the roof”. It would therefore not comply with Policy HE1 since it would “not protect the special interests of several, nearby, Listed Buildings and Places”.

The case for the appellant

14. The appellant states that the catslide dormers will be a small-scale change that will improve the appearance of the property and the quality of the living accommodation in the roof space. He maintains that the setting of the listed buildings and the harbour area’s historic setting will not be adversely affected.
15. The appellant states that he has followed design guidance previously given to him by the Historic Environment Team when application RW/2022/0618 was refused. [This application was for the replacement of the five existing box dormers by three new box dormers, which together would have occupied most of the width of the roof.]
16. This guidance reads: “There is scope for an improvement to the existing, but this would be a smaller form of dormer, potentially a cat slide form to light the bedrooms and a smaller central dormer or preferably a roof light to ventilate the central bathroom. This would provide a better roofscape balance.”
17. The appellant maintains that the proposed development would follow this guidance by providing two catslide dormers to serve the bedrooms and a smaller central catslide dormer to serve the bathroom; the preference for a roof light to serve the bathroom cannot be achieved because it would make the bathroom unusable due to the loss of existing headroom. He states that the catslide dormers will be approximately 30% smaller than the box dormers that were previously refused and 6.5% smaller than the existing box dormers.

Other representations

18. No other representations about the proposed development were received either at the application stage or the appeal stage.

Inspector’s assessments and conclusions

19. I agree with the observations made by the Department about the existing dormers; they give the roof a cluttered appearance that detracts from the appearance of the building as a whole. I also appreciate the special heritage interest of this locality and the protection afforded to its heritage assets and their settings, which call for the exacting consideration of development proposals here; however, I agree with the appellant that the catslide dormers will be a small-scale change and that he has followed the guidance given to him by the Historic Environment Team.
20. The appellant ought to have been able to rely on the guidance he received, which was given as recently as 8 July last year. Nothing has changed since then in terms of planning policy or setting. The Department’s case uses terminology that lacks clarity and fails to identify in sufficient detail how harm would be caused. The decision seems to have been based on a mistaken assessment that the “current proposal appears to have even larger dormers than those refused” (Historic Environment Team, 16 January 2023) and it

does not attach sufficient weight to the policy support given in principle to proposals for improvements to residential accommodation.

21. There are many examples of dormer windows in this locality; various styles exist and they are a noticeable feature of the established fabric and appearance of this heritage setting. The catslide dormers will be a small-scale change that will improve the appearance of the property and the quality of the living accommodation in the roof space, without adversely affecting any listed buildings or the heritage setting. The provisions of Policies GD6 and HE1 referred to would in my opinion be complied with.
22. I have therefore recommended that the appeal is allowed and that planning permission is granted. It has not been suggested that any planning conditions should be imposed in this event and I do not consider that any are needed apart from the usual standard conditions set out below.

Inspector's recommendations

23. I recommend that the appeal is allowed and that planning permission is granted for development at Sandpipers, Le Boulevard, St Brelade JE3 8AB consisting of the conversion of the existing five dormer windows to three catslide dormer windows on the North-East elevation, in accordance with the application RW/2022/1471 and the plans and documents submitted therewith, subject to the following conditions: -

Standard conditions

- A. The development shall commence within three years of the date of this appeal decision.

Reason: The development will need to be reconsidered in the light of any material change in circumstances.

- B. The development shall be carried out entirely in accordance with the approved plans and documents. (Note: The approved plans are listed in the section "Final Drawings (Log)" in the Planning Officer's Application Assessment Sheet dated 30/01/2023.)

Reason: To ensure that the development is carried out as approved.

Dated 1 June 2023

D.A.Hainsworth

Inspector