

PLANNING AND BUILDING (JERSEY) LAW 2002

Appeal under Article 108 against a decision made under Article 19 to grant a 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:

Overton Lodge Ltd

Planning permission reference number and date:

P/2022/1534 dated 17 February 2023

Applicants for planning permission:

G & D Limited

Site address:

Au Caprice Hotel Development Site, La Route de la Haule, St Brelade JE3 8BA

Approved development:

"Construct first floor conservatory to South-East elevation."

Inspector's site visit date:

3 May 2023

Introduction and procedural matters

1. This is a third-party appeal against the grant by the Chief Officer of planning permission for the development described above. The appeal was dealt with by way of written representations with the agreement of all the parties.
2. The permission was granted subject only to the standard planning conditions relating to the commencement of the development and compliance with the approved details.
3. The reason given for the grant was: "Permission has been granted having taken into account the relevant policies of the approved [Bridging] Island Plan, together with other relevant policies and all other material considerations, including the consultations and representations received. Notably, the development's potential impact upon neighbouring properties has

been specifically considered as has the relationship of the development to existing buildings”.

The site and its surroundings and the approved development

4. The site is the former Au Caprice Hotel, which is currently being converted into separate residential units pursuant to planning permissions P/2020/0554 and RP/2021/1092. The appellants are the proprietors of the adjoining property, Overton Lodge, which has already been converted into flats.
5. When the hotel was in use as such, hotel guests had access to the full-width first-floor terrace at the front of the hotel, which extends several metres beyond the front of Overton Lodge. From the terrace, there is a view at close quarters towards the nearest front windows of the flats and downwards into the flats' front garden.
6. In the approved hotel conversion scheme, access to the terrace will be restricted to only one of the new residential units, Unit 3. The folding doors leading from Unit 3 to the terrace will be at the furthest point from Overton Lodge and a privacy screen will be erected on the terrace close to the nearest windows of Overton Lodge.
7. The conservatory to which this appeal relates will be erected on the terrace, next to the folding doors, and will occupy around two thirds of the width and about half the depth of the terrace. It will be in a 'pergola' style, with a flat roof, double-glazing and a grey metal framework. The sliding doors at its front will provide access to the remaining open parts of the terrace.

Summaries of planning representations made by the parties and others

8. The appellants maintain that the conservatory will look out of place in its surroundings and that it will adversely affect the amenities of the nearest flats, as a result of loss of outlook and sunlight, artificial lighting, noise and overlooking. Residents of the flats concerned support these representations.
9. The Infrastructure and Environment Department state that the site is in the built-up area where residential extensions are acceptable in principle. The conservatory will in their opinion be well-designed and, in its context, will have a limited impact on its surroundings and not unreasonably harm neighbours' amenities. The Department consider that Policies GD1 and GD6 of the Bridging Island Plan will be complied with.
10. The applicants agree with the Department's representations. In addition, they state: (a) there are several other upper-level conservatories in the area; (b), the conservatory will be likely to reduce the level of noise when compared with the approved outdoor use of the terrace; and (c) the conservatory will not in fact adversely affect the outlook from the flats or result in a loss of sunlight reaching them. They have submitted a sun path analysis in support of their representations,.

Inspector's assessments and conclusions

11. The main issues in the appeal concern the effect of the conservatory on (1) the appearance of the site and its surroundings and (2) the amenities of the nearest flats in Overton Lodge.

The effect of the conservatory on the appearance of the site and its surroundings

12. The conservatory will be a subservient addition to the building and will be seen against the background of the much larger former hotel and Overton Lodge. It will be set back at the rear of the terrace, with the remainder of the projecting ground floor of the former hotel and its front garden between it and the main road. In some respects it will be comparable to the extensions that have already been constructed on the roof of Overton Lodge.
13. I agree with the Department that the conservatory has been well designed and I consider that it will comply with the principles in Policy GD6 of the Bridging Island Plan concerning its design quality and its relationship to the site and its surroundings.

The effect of the conservatory on the amenities of the nearest flats in Overton Lodge

14. Policy GD1 of the Plan indicates that the conservatory will only be supported where it will not unreasonably harm the amenities of the flats. In particular, the Policy states that it must not create a sense of overbearing or oppressive enclosure, or unreasonably affect the level of privacy or sunlight that the flats might expect to enjoy or adversely affect the flats' environment by the emission of artificial light or noise.
15. The amenity objections raised by the appellants and occupiers of the nearest flats are understandable, given the unusual circumstances of a conservatory being approved on a first-floor terrace where an uncomfortable relationship previously existed between the use of the terrace by hotel guests and the nearest flats. However, the side of the conservatory will be about 4m away from the edge of the terrace next to the nearest flat; it will extend about 3m onto the terrace, but the privacy screen required by the hotel conversion scheme will be within the 4m gap and will extend 2m onto the terrace near to its edge.
16. In these circumstances, I do not consider that the conservatory will lead to overlooking or that it will result in the flats experiencing a significant loss of outlook or sunlight. Artificial lighting within the conservatory is very unlikely to have a harmful impact on the flats. Conservatory use is not inherently noisy, but any noise from within this conservatory may well be less noticeable overall than the noise from the use by Unit 3 of the otherwise unenclosed terrace where the conservatory will be sited, even after allowance is made for the conservatory being used throughout the year. In any event, this is a main road location where there is background traffic noise.
17. The amenity considerations arising here are in reality not significantly different to those arising when a conventional conservatory is erected in a typical ground-level location next to another dwelling. In my opinion, the provisions of Policy GD1 will be complied with.

Overall conclusion

18. The development is in accordance with the Bridging Island Plan and there are insufficient reasons to reverse the decision to grant planning permission.

Inspector's recommendations

19. I recommend that the appeal is dismissed.
20. I recommend that planning permission P/2022/1534 is varied in order to extend the period allowed for the commencement of development to three years from the date of this appeal decision, rather than three years from the date of the grant of the permission. This can be done by inserting "appeal" before "decision date" in Condition A of the permission.

Dated 1 June 2023

D.A.Hainsworth

Inspector