

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

Appellant:

Christina Le Marinel

Planning permission reference number and date:

P/2022/1520 dated 9 February 2023

Applicant for planning permission:

Darren de Louche

Site address:

St Kildare, Langley Avenue, St. Saviour JE2 7NR

Approved development:

"Construct two storey extension to north elevation and extension with balcony on the west elevation. Remove wall to east of site."

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. No representations were received from anyone else either at the application stage or the appeal stage.
2. The permission was granted subject to the standard planning conditions A. and B. relating to the commencement of the development and compliance with the approved details and to the following additional conditions:
 - "C. Any removal of ASBESTOS within the development site should be implemented based on advice from a suitably qualified professional prior to the commencement of development.

Reason: To ensure that the site is left in a satisfactory condition and does not pose a risk to human health and environment, in accordance with the requirements of Policy GD5 of Bridging Island Plan 2022.

- D. No part of the development hereby approved shall be occupied until the balcony in the western elevation at floor level is fitted with an obscure privacy screen along the length of the northern and southern side, to a height of 1800mm from finished floor level. Once constructed, the screen shall be retained as such thereafter.

Reason: To safeguard the amenities and privacy of the occupants of nearby properties in accordance with Policy GD1 of the Bridging Island Plan 2022.

- E. The approved parking area shall be paved using a sustainable material that percolates to allow rainwater to drain naturally and thereafter they must be retained as such.

Reason: To ensure that surface water drainage is minimised, re-used and attenuated properly within developments, in accordance with the objectives set out in Policy WER6 of the Bridging Island Plan 2022."

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."

The locality, the applicant's and the appellant's properties and the approved development

4. Langley Avenue is in the built-up area and has a row of houses on each side of the road. The applicant's house, St Kildare, and the appellant's house, Failte, are next to each other on the western side of the road. The ground here slopes quite steeply to the west, away from the road, as well as sloping from south to north. Both St Kildare and Failte have two storeys at the front and three storeys at the rear. Failte is on slightly lower ground. It has previously been extended at the side and rear. On the side next to the side of St Kildare it has an inaccessible glazed door, which is now only used as a source of light and ventilation for its dining area. A first-floor side window provides light for the stairs and landing. Failte's rear garden adjoins St Kildare's rear garden.
5. The approved development in this appeal includes a side and rear extension to St Kildare and other extensions to the rear of St Kildare. The side and rear extension will be flat roofed and will have two storeys at the front and three storeys at the rear. It will provide storage space at the lower-ground level, a bathroom, utility room and store on the ground floor and a bedroom and study on the first floor. The existing external staircase at the side of the house that leads to the ground-floor side door will be removed. At the rear, additional storage space will be provided at the lower-ground floor level and a single-storey flat-roofed ground-floor lounge will be built over this space. The existing balcony, which projects to the rear at ground-floor level, will be replaced by a new balcony that will project further to the rear, beyond the lounge extension. The existing garage in the rear garden will be removed and minor changes in ground levels and in garden features will be carried out.

Summaries of the planning representations made by the parties

6. The appellants state that the side and rear extension will bring St Kildare significantly closer to the side of Failte, which will reduce the natural light currently enjoyed in the dining area and the stairs and landing. They maintain that the rear extensions will have an overbearing and oppressive impact on Failte, result in a loss of privacy, daylight and sunlight and create noise and disturbance that will detract from the use of their rear garden. They are also critical of the flat-roofed design of the development and are concerned about parking matters.
7. The applicants indicate that the development will provide essential additional accommodation in keeping with the character of the area and other recent developments and with only a limited effect on Failte. They point out that the outlook from the side of Failte is already onto the side of St Kildare and that Failte's rear garden is already overlooked from St Kildare. They state that the garage that will be removed is inaccessible by modern cars.
8. The Infrastructure and Environment Department state that house extensions are acceptable in principle in this area under Policy SP2 of the Bridging Island Plan, subject to meeting other tests in the Plan, which in this case are in Policies GD1 and GD6. They consider that the side and rear extension will be sufficiently far away not to unreasonably harm Failte's amenities and that the balcony will be too far away to unreasonably affect the level of sunlight or to cause unreasonable overshadowing. They maintain that the new balcony will in fact improve Failte's privacy, compared to the balcony it will replace, because it will have privacy screens. They state that the requirement for an additional car-parking space will be met by the removal of the wall at the front, which will give greater access to the forecourt.

Inspector's assessments

9. Policy GD1 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;
 - d. adversely affect the health, safety and environment of users of buildings and land by virtue of ... noise ..."

10. Policy GD6 states:

"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; ...”
11. Large, flat-roofed, side and rear residential extensions, and balconies, have been approved in this locality in recent years, in recognition of the need to improve the existing housing stock here to meet modern living standards. They have not been considered to cause unreasonable harm to residential amenities or to have an effect on the character and appearance of the locality contrary to design principles.
 12. One example is at Ailsdene, where development similar to that approved in the current appeal has recently been completed. Ailsdene is on the same side of Langley Avenue, two houses to the south of St Kildare and three houses to the south of Failte, and the development is clearly visible from both houses.
 13. The developments at Ailsdene and elsewhere in the locality were approved taking into account Island Plan policies that have now been replaced by those in the Bridging Island Plan, but the policy considerations now arising under Policies GD1 and GD6 of the Bridging Island Plan are the same as before as far as the current appeal is concerned. Consistency in planning decisions is important to the integrity of the planning system and Ailsdene provides a yardstick by which the acceptability of the development in the current appeal can be assessed.
 14. In the current appeal, the gap between the side walls of the two houses will be reduced from about 4m to about 1.7m. The existing gap is about 1m less where the external staircase is located. The removal of this staircase and the side door to which it leads will do away with a source of overlooking, since the new side wall will have no openings. There will be some loss of light in Failte's dining room, which relies for most of its natural lighting on the glazed door, and some loss of outlook from here. The effect on the stairs and landing will be minimal.
 15. The three-storey part of the development will project no further to the rear than Failte's existing three-storey projection. There will be windows in its western elevation facing St Kildare's rear garden - a second-storey bathroom window and a third-storey bedroom window. Failte's three-storey rear projection has windows at the same levels facing its garden.
 16. The new lounge at second-storey level will project slightly further and will be in a similar position to the existing balcony. The new balcony will be accessed from the lounge and will add to the amount of development at St Kildare that will be visible from Failte's rear garden. It will, however, be set back about 3.5m from the boundary between the two gardens and Condition D. of the permission requires it to have 1.8m-high obscure-glazed privacy screens. At

present, Failte's rear garden is overlooked from the existing balcony which has no privacy screens.

17. The development should not give rise to additional noise or disturbance.
18. St Kildare's garage is outdated; it is in the far corner of the rear garden and is accessed using the narrow driveway between the houses; there is no turning space. The removal of the wall at the front will provide an additional parking space on the forecourt that will be readily accessible and will help to reduce on-street parking.

Inspector's conclusions

19. The approved development is in keeping with other residential extensions that have taken place in this locality in recent years. There will be some impacts on Failte's amenities mainly as a result of the loss of some light and outlook at the side door/window serving the dining room and the additional development at the rear of St Kildare, which will affect the outlook from parts of Failte's rear garden. Failte's standards of privacy at the side and the rear will improve.
20. In my opinion, these impacts should not be considered to be overbearing or oppressive in this instance. I have concluded on balance that the design principles set out in Policy GD6 will be complied with and that residential amenities will not be unreasonably harmed contrary to Policy GD1.

Inspector's recommendations

21. I recommend that the appeal is dismissed.
22. I recommend that planning permission P/2022/1520 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 12 June 2023

D.A.Hainsworth

Inspector