

PLANNING AND BUILDING (JERSEY) LAW 2002 (as amended)

Appeal under Article 108 against a decision made to grant a planning permission

REPORT TO THE MINISTER FOR PLANNING AND ENVIRONMENT

By Mr Philip Staddon BSc, Dip, MBA, MRTPI

Appellant: Mr and Mrs Querns (Third Party Appellants)

Site address: Sarnia, La Rue de la Croix, St Clement, JE2 6LQ

Application reference number: P/2023/0149

Proposal: 'Construct single storey flat roof extension to South elevation.
Construct garden room to South of site.'

Decision notice date: 3 May 2023

Procedure: Hearing held on 4 August 2023

Inspector's site visit: 1 August 2023

Inspector's report date: 31 August 2023

Introduction

1. This report contains my assessment of the third party appeal made by Mr and Mrs Querns (the appellants). The appeal is made against the decision of the department for Infrastructure and the Environment (I&E) to grant planning permission for a development at a dwelling known as *Sarnia* in the Parish of St Clement.

The appeal site, the appeal proposal and the application determination

The appeal site

2. *Sarnia* is a modest semi-detached dwelling situated on the south side of La Rue de la Croix, which runs eastwards from its junction with La Rue de Samares to La Rue Du Pontlietaut. The house is the westernmost of a short row of dwellings on this side of the road, which are generally set about 5 metres back from the road, and have south facing rear gardens, beyond which is an agricultural field.
3. The *Sarnia* dwelling is of a traditional design, with painted rendered walls and a pitched and hipped tiled roof. The appellants' home is the other half of the semi, known as *A La Fin*, and it has a single storey rear extension, and an outbuilding at the bottom of its garden. The houses fall within the Built-Up Area (BUA) as defined by the Bridging Island Plan (2022) (BIP) proposals map.

The appeal proposal

4. The appeal relates to application submission reference P/2023/0149. The proposal comprises 2 elements: (i) the erection of an outbuilding and (ii) an extension to the rear of the *Sarnia* house.
5. The outbuilding would comprise a single storey garden room which would be sited at the bottom of the garden. It would have a monopitch roof, walls faced in timber cladding, and 4 windows and a door facing north towards the house.
6. The extension would be a single storey flat roofed addition to the rear of the house. It would span most of the width of the property, but its east side wall would be inset from the boundary with *A La Fin* by a short distance. I am advised¹ that the dimensions of the proposal are a width of 5.65 metres, a projection (from the rear wall of the existing house) of 5.45 metres, a height of 2.96 metres, and that the distance from the east wall to the property boundary would be about 200 mm. The extension would be faced in render to match the existing house.

Application determination

7. At the application stage, one of the appellants submitted an email commenting on potential impacts, maintenance issues, a suggestion that the extension be pulled back further from the boundary, and drainage matters.
8. I&E planning officers assessed the proposal to be acceptable under the provisions of the BIP policies and granted planning permission under their delegated powers on 3 May 2023.
9. In addition to the standard conditions regarding the time limit (3 years) and compliance with the approved plans, a condition was imposed which restricts the use of the garden room to purposes ancillary to the occupation of *Sarnia*, and precludes its use as a separate dwelling.
10. Mr and Mrs Querns' appeal is made against this decision. For clarity, under the Law² the decision to grant permission remains in effect, but the development cannot be implemented until this appeal has been decided.

Summary of the appellants' grounds of appeal

11. The appellants' case is set out in their appeal form, a more detailed Statement of Case (5 pages plus appendices) and a further comments submission (10 pages). Although the grounds of appeal are not numbered, there are 4 broad areas of concern. These are:

¹ Paragraph 6 of the Response of the Infrastructure and Environment Department

² Article 117(1) and (2) - Planning and Building (Jersey) Law 2002 (As Amended)

- Clarity concerning the dimensions of the extension.
 - Concerns about the impact of the extension on their property, including loss of light and creation of a tunnel effect. They refer to BIP policies GD1 and GD6.
 - Concern about the creation of a 'no man's land' to the east, which may lead to maintenance, access and legal issues in the future.
 - The appellants consider that the side wall of the extension should be pulled back further (to 420mm from the boundary).
12. The applicants and I&E have provided rebuttals to the appellants' grounds and I include appropriate references in my assessment below.

Inspector's assessment

13. At the Hearing, the parties agreed that the planning merits of the garden room outbuilding were not contested. I agree with the assessment that this element of the proposal is acceptable in planning terms. I further agree that the imposed planning condition No 1, defining and controlling the use of the garden room, is reasonable and necessary.
14. The appellants' concerns focus on the rear extension and, in particular, its proximity to the property boundary. I have read all of the appellants' submissions and it is important that I make clear that my remit, in terms of assessing this appeal, is limited to planning considerations. It does not extend to consideration of private property matters, including the content of property deeds, and any legal matters concerning boundaries and maintenance rights. However, I will explore the planning issues under the 4 identified concerns summarised above.

Dimensions

15. The application included architectural drawings of the proposed floorplans and elevations of the extension. These were to a recognised architectural scale and included a scale bar. The drawings also show the boundary fence and the rear extension to *A La Fin*, and this greatly assists in interpreting the proposal in context.
16. Whilst it would have been helpful to include annotated dimensions on the drawings, as many people do not have ready access to an A1 paper size printer, I do not consider that there is any uncertainty about the size of the extension, in terms of its footprint, height, and position in relation to the boundary.
17. The dimensions cited above (paragraph 6) were further confirmed and agreed by all parties at the Hearing.

Impact on living conditions

18. The main planning issue in this case is whether the extension would be acceptable in terms of its impact on the living conditions of occupants of A

La Fin. The most relevant BIP policy is GD1, which covers 'managing the health and wellbeing impact of new development' and it requires all development proposals to be considered in relation to their potential health, wellbeing and wider amenity impacts. It requires that developments must not unreasonably harm the amenities of occupants and neighbouring uses, including those of nearby residents. It cites some particular matters that developments must avoid, which include: creating a sense of overbearing or oppressive enclosure; unreasonably affecting the level of sunlight and daylight to buildings and land that owners and occupiers might expect to enjoy; and adversely affecting the health, safety and environment of users of buildings and land by virtue of emissions to air, land, buildings and water including light, noise, vibration, dust, odour, fumes, electro-magnetic fields, effluent or other emissions.

19. Policy GD6 is also relevant. It relates to 'design quality' and its stated 'key principles' include the relationship of the development to existing buildings (GD6(1)) and the impact on neighbouring uses (GD6(3)).
20. The extension would project rearwards about 1.85 metres further than the *A la Fin* rear addition. It would be a single storey flat roofed structure, which limits its mass. When viewed from the glazed doors and windows in the rear wall of *A La Fin's* extension, only a limited part of the projecting extension will be visible above the timber boundary fence.
21. I assessed the proposal from a sitting position on a sofa within the appellants' property where the effect of the extension would, in my view, be greatest. From here the seated occupant would experience the blocking of some element of currently visible sky and evening setting sunlight (the view is to the west). I can understand the appellants' opinion that this would be harmful to their amenities and I do not disagree that some diminution of living conditions would arise. However, it is a limited effect and the outlook and daylight/sunlight enjoyed in the appellants' south facing living room would remain of a good standard. The effect of the proposal would therefore not pass the 'unreasonable' threshold set out in policy GD1 which, by logical implication, accepts that some harm will arise from new developments which are generally supported in the BUA.
22. Moreover, the physical effect of the proposed extension is not unusual or uncommon in the context of the BUA. In this regard, I have noted the applicants' submissions that their living room is currently compromised by the appellants' addition which extends 3.6 metres beyond the rear wall of the original house. I have further noted the applicants' agent's view that, if there were no extension to the appellants' house, even a modest 3-metre projection extension would have a greater effect than the current proposal and that he had guided his clients to adopt a flat roof design, to minimise impact on their neighbours' house.
23. With regard to the alleged 'tunnel effect', the appellants are concerned about the space between the existing and proposed extensions. However, in planning terms, there is nothing particularly unusual about such spaces being created between neighbouring extensions, and there is no specific

policy or guidance that precludes this type of relationship between neighbouring buildings.

24. Overall, I do not consider that the proposal will result in any unreasonable overbearing effects, nor any significant loss of light, outlook or shadowing to the occupants of *A La Fin*. As I have found no unreasonable harmful effects, there is no conflict with the relevant provisions of policies GD1 and GD6.

'No man's land'

25. The physical space between the east side wall of the proposed extension and the west side wall of the existing *A La Fin* extension would be limited. I am advised that the extension wall would be set in about 200mm from the party boundary/fence line, and I measured a distance from this fence to the appellants' extension side wall varying from about 400mm (nearest the house) to about 300mm at its rear corner.
26. The legal rights and practicalities of using this space for maintenance purposes are not planning matters for my consideration in this appeal.

Further set back suggestion

27. Whilst I note that the appellants would prefer the appeal proposal to be revised, such that it was setback further, there is no planning policy provision or guidance that would support that suggestion. At the Hearing, I did explain to the parties that my assessment must be made on the basis of the submitted proposal and not on suggested alternative designs that the appellants may prefer.

Conclusions and recommendation

28. I am satisfied that the *Sarnia* single storey extension and garden room proposals are acceptable in planning terms, and that they accord with the relevant provisions of BIP policies GD1 and GD6. I therefore recommend that the Minister dismisses this appeal and confirms the grant of planning permission under reference P/2023/0149.

P. Staddon

Mr Philip Staddon BSc, Dip, MBA, MRTPI