

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 13 September 2023. Hearing held on 13 September 2023.

Reference: P/2023/0219

Les Burons, Le Chemin des Maltières, Grouville, JE3 9EB

- The appeal is made under Article 108 and 110 of Planning and Building (Jersey) Law 2002 (as amended) against the granting of permission to develop land.
 - The appeal is made by Anne Davenport and Peter Hargreaves against the decision of the States of Jersey. The appellants live within 50 metres of the appeal site.
 - The application Ref P/2023/0219 was approved by notice dated 14 May 2023.
 - The application granted permission is "Construct single storey extension on existing upper ground floor balcony/terrace."
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Recommendation

1. I recommend that the appeal be dismissed and that the original planning permission be upheld, subject to conditions.

Introduction and Procedural Matters

2. This Report refers to the Planning Department as "the Department."
 3. The Bridging Island Plan, referred to in this Report as "*the Island Plan*" was adopted on the 25th March 2022.
 4. The description of the application granted permission above is as that set out on the decision notice.
 5. A recent planning application, P/2022/0871, also relating to a single storey extension, was refused. The applicant states that the proposal the subject of this appeal includes minor changes intended to address the reasons for this previous refusal. The Department considers the proposed development the subject of this appeal as "responding well to previous concerns."
 6. The appellants have raised concerns in respect of the absence of a design statement in support of the proposed development. The Department has confirmed that the submission of a design statement to support the planning application was not necessary.
 7. The appellants consider that the design of the proposed development does not overcome the reasons why the previous application was refused. However, the Department granted permission for the proposed development, which was different to the proposal the subject of application P/2022/0871 and as noted above, the Department considered that the proposal the subject of this appeal responded well to previous concerns.
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8. On the submitted appeal form, the appellants refer to the referencing of a representation and suggest that consideration of the decision to grant planning permission should have been reviewed by Planning Committee rather than by a Planning Inspector. The Department does not accept that any procedural errors have been made in this regard.
9. The above is a matter between the appellants and the Department. I note that the appellants have appealed a planning decision and that there is nothing before me to lead me to conclude that my consideration of this planning appeal, as a Planning Inspector appointed by the States of Jersey, is procedurally incorrect.
10. The appellants consider that the submitted plans lack clarity, detail and consistency. I note that the submitted plans were registered by the Department and were approved as part of the grant of planning permission. The Department considered the submitted plans to be appropriate and there is no substantive evidence before me to lead me to a different conclusion.
11. The appellants draw attention to the absence of landscaping. However, there was no requirement for the application the subject of this appeal, which relates to a proposal for an extension on an existing balcony/terrace, to be supported by a landscaping proposal.
12. The appellants state that the proposed development “breaches” the building line. The proposed development would take place above an existing garage, behind and within the property’s existing forward building line. The proposal would result in a forward projection at upper ground floor level, which is a matter considered below, but to my mind, it would not alter the property’s existing building line or its existing footprint.
13. Further to the above, I observed during my site visit that the building line of dwellings along this part of Le Chemin des Maltieres is irregular.
14. The appellants state that the proposal is for an extension to the footprint of the building. As set out above, I do not agree that this is the case.
15. The appellants state that the description of development is inaccurate and that it should refer to a first floor extension. The Department is satisfied that the description of the development is appropriate. I have considered the description of the proposed development against the appropriate plans and there is nothing to lead me to reach a different conclusion to the Department in this regard.
16. The appellants state that the proposed materials are not shown on the plans. In this respect, the Department has stated that it is satisfied that the materials would match the existing render.
17. The appellants state that the proposal would result in light pollution, but there is no substantive evidence before me to demonstrate that this would be the case.
18. The appellants state that Island Plan Policy WER6 has not been addressed in the approval. In this regard, I note that the Island Plan is considered as a whole and that there is no substantive evidence before me to demonstrate that the proposal would be in direct conflict with Island Plan Policy WER6.

19. The appellants raise other matters relating to various details associated with the approved plans. Notwithstanding my findings and recommendation set out below, there is no substantive evidence before me to demonstrate that there are any other matters that would, either individually or together, result in the proposed development failing to comprise sustainable development or amount to such harm as to warrant the upholding of this appeal.
20. The summaries of the various cases set out below are neither exhaustive nor verbatim but summarise main points made by the relevant parties. In reaching the recommendation set out in this Report, I have considered all of the information before me.

Case for the Appellants

21. A number of the appellants' grounds of appeal are addressed as procedural matters, above.
22. Turning to matters related to what I identify later in this Report as being the main issues in this case, the appellants consider that the proposal would result in an overbearing development that would not respect its relationship with neighbouring dwellings and that consequently, the proposal would comprise poor design, contrary to Island Plan Policy GD6.
23. The appellants state that the proposal would create a deep open lounge behind the extension and that this would push activity to the front of the proposed development. The appellants state that the resultant cumulative accumulation of activity and use would compromise their privacy and their enjoyment of their property.
24. The appellants consider that the proposal would bring an upper building line closer to their home and that this would result in an overbearing development, to the detriment of their wellbeing.
25. The appellants consider that the proposed development would comprise over-development and urban intensification, and that it would harm the rural character of the area.

Case for the Planning Authority

26. The Department considers that the proposed development would assimilate well into the existing building and would not be out of character with the Green Zone and surrounding area; and has confirmed that, in its view, the proposed development would overcome the previous reason for refusal.
27. The Department considers that, as no new window to the south-west elevation is proposed and as the proposed north east window would be well inset from the end elevation of the house and within the existing end parapet walls, no unreasonable harm to neighbouring occupiers would arise in respect of overlooking.
28. The Department states that the proposal would relate well to the existing building and would form an extension to it, rather than be seen in isolation from it – and that any illumination would be seen in this context.

29. The Department considers that there would be no unreasonable harm to the health and wellbeing of neighbours as any impacts arising from the development would be limited and would be typical for a residential property.
30. The Department refers to examples of decisions relating to other development proposals provided by the appellants in support of their case and notes that neither of these provide for direct comparison.

Case for the Applicant

31. The applicant states that a design statement was not provided as none was required.
32. The applicant does not agree that the proposal breaches the building line and has referred to neighbouring dwellings being closer to the road than the appeal property.
33. The applicant states that the proposed development would not result in more overlooking of the appellants' garden but would result in there being less opportunity for overlooking because a solid wall would be extended across an existing area of balcony/terrace.
34. The applicant states that the proposed development was designed to be compatible with the existing building, including mirroring the glazing of the floor above.
35. The applicant notes that the proposed development would not include a high level window to the south east, having regard to residential amenity.

Main Issues

36. The main issues in this case are the effect of the proposal on the character and appearance of the area; and its effect on the living conditions of neighbouring occupiers, with regards to outlook and privacy.

Reasons

Character and appearance

37. The appeal property comprises a detached dwelling located along Le Chemin des Maltières in the Green Zone, within which the Island Plan requires development to reflect and respond to its valued landscape character.
38. This part of the Green Zone is characterised by a single row of detached properties. Dwellings are set back from the road behind parking areas and gardens, with woodland rising behind them. Across the road, to the front of the properties, is an open field extending towards woodland.
39. Whilst dwellings tend to be set relatively close together, the above features result in a surrounding environment that is green and spacious.
40. During my site visit, I observed that many of the properties in the area have been altered and/or extended. Some of the changes appear comprehensive and this has resulted in dwellings of a varied form and appearance.

41. The appeal property has a stepped appearance such that, to the front, three floors are visible. The lowest floor includes garages and is stepped forward of the floor above it, which is fronted by a balcony/terrace above the garages. The highest floor also has a balcony, which is located above the balcony/terrace below. The upper floors of the dwelling are extensively glazed to the front, including several French windows, which provide direct access to the external areas to the front.
42. The appeal dwelling is stepped well back from its neighbour to the north-east and forward of the appellants' property, which neighbours the appeal site to the south-west.
43. The proposed development would comprise a small flat-roofed extension to the front of the upper ground floor above the garage area. This would not extend across the full width of the existing balcony/terrace but would be set in from both sides. The proposed extension would also be set back from the front of the balcony/terrace area, providing for access to the balcony to the front to a large remaining balcony/terrace area to one side.
44. I find that the overall width, projection and height of the proposal are such that it would amount to a modest addition. Further, it has been designed in such a manner that it would blend in with and would neither detract from, nor jar with in any way, the existing appearance of the dwelling. In this regard, I note that the proposed glazed front of the extension would largely mirror the existing appearance of the top floor of the dwelling.
45. Taking all of the above into account, the proposal would comprise a modest extension that would appear in keeping with the host dwelling and its surroundings. It would not result in any harm to local character and would not be contrary to Island Plan Policies GD1, GD6, NE3 and SP3, which together amongst other things, seek to protect local character.

Living conditions

46. The Island Plan seeks to achieve an appropriate balance between safeguarding the amenities of Jersey's residents and meeting Jersey's development needs.
47. To achieve this, Island Plan Policy GD1 ("*Managing the health and wellbeing impact of new development*") requires development proposals to be considered in relation to their potential health, wellbeing and wider amenity impacts and only supports development where it:

"...will not unreasonably harm the amenities of occupants and neighbouring uses, including those of nearby residents..."
48. Thus, in determining whether or not to support a development impacting upon residential amenity, the appropriate test for the decision-maker is not whether such development will result in harm, but whether or not such harm would be *unreasonable*.
49. The proposed development would effectively enclose an existing area of balcony/terrace. During my site visit, I observed that it is currently possible to overlook the appellants' property to some degree from the side of this existing balcony.

50. In the above regard, I find that the proposal, which would enclose part of the balcony/terrace closest to the appellants' property with a solid wall, would to some degree, reduce the potential for overlooking of the appellants' property. Furthermore, the proposal would, by projecting into part of the balcony/terrace, result in part of the remaining balcony/terrace becoming more private.
51. Taking the above into account, I find that the proposed development would not result in unreasonable harm in respect of the privacy of neighbouring occupiers.
52. I do note however, that the proposed development would result in the forward projection of the upper ground floor of the appeal property and that this projection would be visible in oblique views from the appellants' property.
53. However, whilst this would result in a change to the outlook from the appellants' property, the modest projection of the proposed extension, along with its flat-roofed form and distance from the appellants' dwelling, would combine to result in the resultant change only having a very limited impact. I find that oblique views to one side would be different, but that the modest addition proposed would appear neither oppressive nor overbearing when seen from the appellants' property.
54. In this regard, I am mindful that the appellants consider that the impact on their outlook would be significant. However, taking everything into account, whilst I acknowledge that some harm would arise in this respect, for the reasons set out above, I find that, overall, this harm would only be slight.
55. Given this, I conclude that the harm arising would not be unreasonable, having regard to the relevant policy test set out in the Island Plan.
56. Consequently, the proposed development would not result in unreasonable harm to the living conditions of neighbouring occupiers, with regards to outlook and privacy; and the proposal would not be contrary to Island Plan Policy GD1.

Other Matters

57. The appellants have provided examples of decisions relating to other development proposals in support of their case. However, neither of these appear to relate to development proposals or to circumstances that are so similar to the proposed development the subject of this appeal as to provide for direct comparison.
58. Notwithstanding the above, in any case, I have found that the proposed development would not result in harm to local character and would not result in unreasonable harm to residential amenity, leading to my recommendation below.

Conditions

59. In granting planning permission, the Department imposed the two standard planning conditions. These require development to commence within three years of the decision date and require development to be carried out in accordance with approved plans.
60. No change is recommended in this regard.

