

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

Appeal under Article 108 against a decision to refuse planning permission

REPORT TO THE MINISTER FOR THE ENVIRONMENT

By Mr Philip Staddon BSc, Dip, MBA, MRTPI

Appellant: Nadia Miller

Site address: Le Boulevard, La Grande Route des Sablons, Grouville JE3 9FN

Application reference number: P/2024/0810

Proposal: *'Reconstruct garages to North of site. AMENDED PLANS RECEIVED. REQUEST FOR REVIEW of refusal of planning permission.'*

Decision Notice date: 16 January 2025

Procedure: Written representations

Inspector's site visit: 1 April 2025

Inspector's report date: 30 April 2025

Introduction

1. This report contains my assessment of the appeal made by Nadia Miller against the planning authority's decision to refuse planning permission for a development involving the replacement of a set of lock up garages within the grounds of an apartment block in Grouville parish.

The appeal site, the proposal and the application determination

2. The red-lined appeal site lies between La Grande Route des Sablons and the coast. It contains *Le Boulevard*, which is a substantial building containing residential apartments, set in the middle part of the site. On the eastern side of the apartments building, there are gardens and steps down to the beach.
3. The western part of the site comprises a hard surfaced parking area, with access from La Grande Route des Sablons, along with a block of garages which run alongside the site's northern boundary. The western end of the garages is on the edge of the road and comprises stone block wall, which is a little higher than the main garage block structure behind. There are 5 garages in total, set under a shallow pitched corrugated sheeting roof, with access gained from the hard surfaced forecourt.

4. Just beyond that northern site boundary is a Grade 1 Listed Building¹, 'The Guard House and La Rocque Tower'. The appeal site is within the Built-up Area as defined in the Bridging Island Plan (adopted March 2022) (BIP).
5. The appeal proposal seeks to replace the garages with 5 new garages in a similar location, but with a higher pitched roof which would include storage space above the vehicle parking spaces. The scheme would also include the ceding of a small part of the site to allow for the provision of a bus shelter.
6. Officers assessed the proposal to be unacceptable and refused to grant planning permission under delegated powers for the following reason:
"The proposal, by reason of its design, height and roof form, would have a detrimental visual impact on, and would fail to protect the setting of, 'The Guard House & La Rocque Tower', a Grade 1 Listed Building. This is contrary to policy HE1 of the Adopted Bridging Island Plan 2022."
7. A review request of this decision was subsequently lodged, but the Planning Committee endorsed the officer decision. The appeal is made against this refusal of planning permission.

Summary of the appellant's grounds of appeal

8. The appellant's case is set out in the appeal form with appendices, which include a list of 7 grounds of appeal, which are expanded upon in a 42-page Statement of Case (February 2025) and a 19-page Further Comments document.
9. The 7 stated grounds of appeal are:
 - 1) *Compliance with the Island Plan: The proposal is in accordance with the policies of the adopted Island Plan and is consistent with all material considerations. It represents sustainable development in line with the plan's objectives.*
 - 2) *Enhancement of the heritage setting: By removing the existing unsightly garage block and replacing it with a sensitively designed structure, the proposal would protect and enhance the setting of the nearby Grade 1 Listed heritage assets, namely 'The Guard House' and 'La Rocque Tower'. The design, height and roof form have been carefully considered to respect and improve the surrounding historic context.*
 - 3) *High-Quality and Considerate Design: The proposal represents a high-quality design that responds positively to its surrounding. It is a significant improvement over the existing structure, contributing positively to the architectural character and visual quality of the site.*
 - 4) *Improved Living Conditions: The proposal would deliver substantial benefits to the living conditions of the occupants of the flats served by the garages. This would be achieved through the provision of secure off-street parking and additional storage space, enhancing the functionality and usability of the site for residents.*

¹ Whilst there are 2 distinct building structures, they are covered by one List entry. I therefore use the term 'Listed Building' to refer to both, unless otherwise stated.

- 5) *Highway Safety and Public Benefits: The replacement garages would provide much-needed off-street parking for the occupants of the flat[s], reducing pressure on the surrounding roads and improving highway safety. This would provide a tangible benefit to both the residents living near the site.*
- 6) *Provision of a Public Bus Shelter: The inclusion of a public bus shelter as part of the proposal would offer significant public benefits. This provision would improve access to public transport, enhance safety and comfort for bus users, and align with sustainable transport objectives.*
- 7) *Ecological enhancement: The proposal incorporates measures that would result in ecological improvements compared to the existing structure. This aligns with the Island Plan's commitment to enhancing biodiversity and sustainable development.*

Summary of the planning authority's case

10. The planning authority's case is set out in a 3-page Response document, with 3 appendices, comprising the officer report, the Decision Notice, and copy of the Schedule for the adjacent Listed Building.
11. The Response explains that the proposal was considered against the relevant BIP policies and assessed to be unacceptable for the reason set out in the Decision Notice. It rebuts each of the 7 grounds of appeal.
12. With regard to ground 1, it says that the reason for refusing permission was reasonable, and based on an assessment of BIP policies and material considerations.
13. Concerning ground 2, it states that the proposal would have a detrimental visual impact on the adjacent Listed Building and would fail to protect its setting, and points out that the Grade 1 Listing reflects the high importance and significance of this heritage asset.
14. In terms of ground 3, the planning authority disputes the appellant's view that the proposal would be of a high quality and considered design, given that the steep pitched roof, to house the upper storage areas, results in an unacceptable impact on the Listed Building.
15. The planning authority argues that other claimed benefits, such as additional storage space for residents (ground 4), off-street parking provision, the provision of a bus shelter, and ecological improvements, do not outweigh the harm to the Listed Building and that some of these benefits could be achieved with a less harmful scheme.
16. The planning authority maintains that there would be substantial harm to the setting of the Grade 1 Listed Building, and that the decision to refuse planning permission was justified.

Interested party's view

17. I have noted and taken into account, the detailed comments, representations, photographs, and plans submitted by G.J.C. Bois.

Inspector's assessment

18. Whilst the appellant's grounds are wide ranging, the main issue in this case is the effect of the proposal on the setting of the adjacent Listed Building and design related considerations (Grounds 2 and 3). I will therefore assess the main issue first, and explore the other grounds of appeal thereafter.

Setting of the Listed Building

19. The Guard House & La Rocque Tower comprise a significant and important Jersey heritage asset. The description contained in the Listing Schedule includes the following: *The Guard House is a sturdy single-storey, vaulted masonry structure with segmental-arched door surround and pantile roof. Internally there is a small guardroom and magazines. Stone paved Battery platform. The Tower is of the standard Conway pattern. It is round and tapered, built of regular squared and well-tooled blocks of granite, with some brick dressings. The upper floors are punctuated with musketry loopholes, with dressed granite doorway raised at first floor level. There are four machicolations at parapet level. Roof platform with masonry parapet.*
20. The Statement of Significance contained in the Listing Schedule reads: *One of the most important historical military sites in Jersey, showing a range of fortifications in close proximity - an early Guard House and Magazine built in 1691 (later extended), La Rocque Tower (Grouville Bay no.1) built 1779-80, and the remains of an 18th century paved battery and boulevard (all that is left of Le Boulevard de la Rocque). The 1940s German installations are of historic interest only, as an example of the re-use of an existing strategic site for military purposes in the 1940s, and as part of the wider network of German defences.*
21. The appeal proposal would be sited in very close proximity to the Listed Building. Indeed, for most of its length it would abut the Listed site as defined in the plan included in the Schedule. The BIP includes in its glossary a definition of the 'setting' of a Listed Building. This states that it is *"the surroundings that it is experienced in. It often extends beyond the property boundary, or 'curtilage', of an individual building or place into the broader landscape or townscape context. The extent may have and will change over time following changes to the landscape or townscape, new or removed buildings or with our increased understanding of a building, site or its wider context. The importance of setting is not dependent upon there being public access to, or public views of, the building or place..."*
22. Applying this definition, there can be no dispute that the appeal proposal would be within the Listed Building's setting and that, indeed, it would fall within its immediate setting. That fact, along with the high significance and importance of the heritage asset, means that any development in this location is highly sensitive. It is also important to recognise that a setting can change over time (as recognised in the BIP definition) and, in this case, more recent developments, including Le Boulevard apartments and its garage block (to the south) and the electricity substation (to the west), are part of the Listed Building's baseline setting today.
23. The existing garage block is a utilitarian building and it would clearly benefit from some maintenance works. Whilst I note the appellant's wish to avoid

'constantly making repairs'², the garages did appear to remain in a serviceable condition, and some were in active use when I visited. I have noted the appellant's references to cracks, retaining brackets and roof leaks, but I have not been provided with any technical survey evidence to demonstrate that the block is beyond repair, and I note that one of the submitted drawings³ includes a 'not surveyed' notation on the garages.

24. An important feature of the existing garages, in terms of the Listed Building's setting, is that, whilst architecturally unremarkable, they are low rise, being essentially the height of the garage doors with a shallow pitched roof structure above. This means that, when experienced from positions to the south and west, the tower and the upper parts of the guardhouse are visible, although the tall flank wall of the garage block on the roadside does mask the view from some localised positions.
25. Due to the design incorporating a pitched roof housing storage space above the garages, the replacement building would be notably taller and more imposing than the low-level structure it would replace. The submitted drawings⁴ indicate a height of 6.175 metres from the slab level to the roof ridge. Whilst the impact of this is lessened a little by a proposed adjustment of ground levels (the new garages would be set lower than the existing), it would still be conspicuously taller and bulkier.
26. Indeed, the drawings show that the height of the proposal would be notably above the ridge height of the Guard House roof. This means that the appeal proposal will physically impose itself in an unwelcome manner within the Listed building's immediate setting. This would restrict views of the heritage assets from locations which fall within the surroundings that they are most experienced within. I have noted the supplementary drawings produced by the appellant for the Planning Committee Review but, in my assessment, these simply confirm my findings that key views of both the Tower and the Guard House would be impacted. Whilst the appellant may regard these as nominal, I disagree and consider the effect to be significant and adverse.
27. Policy HE1 requires proposals that could affect a Listed Building to protect its special interest, and seek to improve its significance. The appeal proposal fails to achieve these requirements and would result in harm. As none of the exceptions under the policy apply in this case (see other grounds below), there is a clear conflict with policy HE1. Although not cited in the refusal reason, there are consequential conflicts with policies GD6 (Design Quality) and SP4 (Protecting and Promoting Island Identity) which, amongst other matters, require that proposals should protect or improve the historic environment.
28. I conclude that the appeal under grounds 2 and 3 should therefore fail.

² J Design letter dated 15 May 2024D

³ Drawing number 1596/24/S07

⁴ Drawing number 1596/24SK13 Rev B

Other grounds

29. The appellant's other grounds claim a range of benefits that would arise from the appeal proposal. I have considered these, including with reference to the policy HE1 exception circumstances, where harm to a heritage asset's setting may be justified.
30. Ground 4 claims that residents' living conditions would be improved through the provision of secure off-street parking and additional storage space, enhancing the functionality and usability of the site for residents. This may be so, but the benefit is a private one and would not outweigh the substantial harm I have identified under the main issue.
31. Ground 5 claims highway safety benefits, but I am unclear how replacing 5 garages with 5 garages offers any net highways safety benefit and, in any event, any claimed benefit would not outweigh the heritage harm that I have assessed.
32. I do accept that the provision of a bus shelter (ground 6) would amount to a limited public benefit, but again, I am unconvinced that it alone could justify allowing significant harm to the setting of one of Jersey's most important historic military sites. Moreover, there is no evidence to suggest that the benefit of the bus shelter could not be delivered by an alternative scheme which, in line with policy HE1, avoids, mitigates and reduces harm as far as is reasonably practical.
33. Likewise with ground 7, as any ecological benefits appear to be limited and could be secured in a less harmful scheme. They do not provide the basis for allowing this appeal.

Conclusion and recommendation

34. For the reasons stated above, I conclude that the appeal proposal would be harmful to the setting of the Grade 1 Listed Building. This conflicts with BIP policies HE1, GD6 and SP4, and there are no other material considerations that would indicate that a decision should be made other than in accordance with these most relevant policies.
35. I therefore recommend that the Minister DISMISSES this appeal and confirms the refusal of planning permission for the development proposed under planning application reference P/2024/0810.

P. Staddon

Mr Philip Staddon BSc, Dip, MBA, MRTPI