

## **PLANNING AND BUILDING (JERSEY) LAW 2002 (AS AMENDED)**

Appeal under Article 108 (2) (a) against a decision to grant planning permission

### **Report to the Minister**

By Sue Bell MSc., BSc, FCIEEM, CEcol, CWEM,  
An Inspector appointed under Article 107

**Appellants:** (a) Mr Joe Foott & Ms Shirley Syvret  
(b) Mr Joe De Freitas

**Planning Permission Reference Number:** P/2024/1484

**Decision notice date:** 25 February 2025

**Location:** 13 Oaktree, Clos de l'Ecole, St. John, JE3 4EL

**Description of development:** Demolish existing single storey lean-to extension and construct single and two storey extension with first floor Juliet Balcony to North Elevation. AMENDED PLANS RECEIVED: 2-storey extension projection reduced by 600mm, revised gable to hipped roof profile to North Elevation with glazed guarding to be obscured.

**Appeal procedure and dates:** accompanied site inspection (13 May 2025), hearing (15 May 2025).

**Date of report:** 13 June 2025

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### **Preliminary matter**

1. Two appeal forms were received and validated by the Planning Tribunal. As these are appeals against the same grant of permission, I have considered them together.

### **Introduction**

2. Two third-party appeals have been raised against the decision to grant planning permission for an extension to a residential property in St John.
3. Permission was granted by the Infrastructure and Environment Department using delegated powers on 25 February 2025.
4. A summary of the cases presented by each party during the application and the appeal are presented below. Further details are available in the statements and other documents submitted by each party, which are available through the Planning Applications Register website.

### **The appeal site and proposed development**

5. The appeal site is a 2-storey family home, located within an estate in the built-up area of St. John. It has 3-bedrooms. There is parking to the front (south) of the property and the main external amenity space is to the rear (north) of the property. There is an existing single-storey extension to this northern elevation. The boundaries to the west and north are defined by walls. The wall to the north is

particularly tall and separates the appeal site from a neighbouring property to the north.

6. The proposals seek the removal of the existing 'lean-to' extension and replacement with a part single storey and part 2-storey extension. The 2-storey element would be located on the western side of the property. It would have a hipped roof. The proposals would add an extra bedroom and increase habitable space on the ground floor. At first-floor level there would be full-height, opening windows, with a Juliet balcony.

#### **Case for the appellants**

7. The appellants' grounds of appeal are summarised:

##### **(a) Foott & Syvret**

- The development would result in unreasonable harm to residential amenity through loss of privacy and overlooking, contrary to policies SP3 and GD1.
- The appellant is concerned about the decision-making process.

##### **(b) De Freitas**

- The development would result in unreasonable harm to residential amenity through violation of privacy and creating a sense of overbearing.
- Planning decision violates conditions set out in deeds.
- Lack of visit by planning officer to consider points raised in objections.

#### **Case for the Applicant**

8. The applicant's response can be summarised:
  - We have been fully committed to ensuring the proposed development respects both the character of the area and the amenity of neighbouring properties.
  - The massing of the extension was reduced by 600mm to lessen the visual impact.
  - The roof angle was adjusted to reduce the gable end and to soften the scale of the development when viewed from neighbouring properties.
  - Glazing on the guarding of the Juliet balcony is to be obscured to reduce any opportunity for overlooking.
  - The extension is designed to be in character with the estate.
  - The room is proposed as a bedroom, which would not be used during the day.
  - The orientation of the property means that there is not a direct line of sight into habitable rooms or primary amenity spaces of neighbouring windows.
  - The views would be similar in nature to those enjoyed by the property to the north.
  - Mutual visibility is already a feature of the built context.
  - There is no condition in the deeds that specifically relates to restriction on a two-storey development or that windows to the north elevation should be frosted.

#### **Case for Infrastructure and Environment Department ('the Department')**

9. Points in response to the grounds of appeal can be summarised:

(a) Foott & Syvret

- The site is surrounded by other residential properties and the proposed extensions are not out of character with its locality and its built-up area designation.
- The development is considered of a high quality of design that would reflect and enhance the character of the area. The extensions are to the rear of the property and would not be overly prominent. It is considered to be in accordance with policy SP3.
- The proposed development is set off the party boundary to the side of the neighbouring house which projects further rearwards than the appeal site house. No windows are proposed to the side elevation facing west towards the appellant's property. Amended plans were accepted to reduce the rearward projection by 600mm. The Department considered that the proposed development would be in accordance with policy GD1.
- Five letters of objection from 3 households were received. The proposal was considered by the Department using delegated powers as the number of objections did not meet the threshold set out in 'The Planning Committee - Procedures and Arrangements' document for consideration by the Planning Committee.

(b) De Freitas

- The proposed extension would bring the development further towards the appellant's property and there would be views from standing at the Juliet balcony, but at the distance involved and with the existing high rear boundary wall and trees on the appellant's side it is considered that any impact is not unreasonable.
- The Department researched the planning application history of the site and the wider cul de sac's original permission and concluded there were no restrictive planning conditions preventing this development.
- Details in deeds are not a material planning consideration for this appeal and any disagreement over them are a private legal matter between the parties.
- The case officer visited the appeal site and viewed the environs, including to the appellant's site from the first floor of the applicant's house.

### Consultation responses

10. The **Parish of St John** (10 February 2025) had no comments.
11. **Department for Infrastructure Operational Services - Drainage** (14 February 2025) did not object to the proposals. The response included advice about the design of soakaways.
12. The **Land Resource Management Team** (7 April 2025) provided an informative that the site has the potential to support protected species.

### Representations

13. Six representations are listed on the planning register. Five of these were either submitted directly by or sent on behalf of both appellants. The sixth objection raises concerns about the effects of the extension on light levels and privacy.

## Key Issues

14. Article 19 (1) of the Planning and Building (Jersey) Law 2002 as amended notes that all material considerations shall be taken into account when determining an application for planning permission. Paragraph (2) of the same article states “*In general planning permission shall be granted if the development proposed in the application is in accordance with the Island Plan.*” The current Island Plan is the Bridging Island Plan, dated March 2022 (‘Island Plan’).
15. Having regard to the provisions of the Island Plan, the grounds of appeal and other material considerations, I consider that the key issues in this appeal relate to:
  - The effect of the proposals on neighbouring amenity.

### The effect of the proposals on neighbouring amenity

16. Policy GD1 - Managing the health and wellbeing impact of new development states that proposals will only be supported where they will not unreasonably harm the amenities of occupants and neighbouring uses, including those of nearby residents. This includes that proposals should not unreasonably affect the level of privacy to buildings and land that owners and occupiers might expect to enjoy. I have considered each property in turn.
17. The boundary between the appeal site and the property to the west is defined by a wooden fence, at least 1.8 metres high. This means there is no inter-visibility between the properties at ground floor level. I do not consider that the proposals would substantially alter this relationship at ground floor level.
18. I saw that the rear of the property to the west, including the external amenity area is already overlooked, to a degree, from upper windows of houses to the north and west. Currently, there are two windows on the north elevation of the appeal property at first floor level, which serve bathrooms. Although these are of obscured glass, I saw that there are no limits on their opening. When fully open they permit oblique views over the boundary fence to the west, and it is possible to see the external amenity space of the neighbouring property. Views through the glazed roof of the neighbouring extension are restricted by the orientation of the windows, the extent of the eastern wall of the neighbouring property, which extends forward of the appeal property, and the presence of the glazing supports in the roof.
19. The proposals would act to move the rear face of the house at first floor level approximately 3.9 metres further north (as measured from Drawing 23:04:002 Revision A). It would introduce full height, opening windows and a Juliet balcony. The screen for the balcony would be 1.4 metres high and constructed of obscured glass. The proposed windows would be closer to the external amenity area and the roof of the extension on the neighbouring property to the west than the existing bathroom windows. Nevertheless, the face of the new window would be orientated away from the neighbouring property. I consider that this combined with the presence of the projecting eastern wall of the adjoining property, angles involved in looking downwards, and the presence of the glazing supports in the roof, would act to limit the extent of any potential for overlooking into the extension to the west. I appreciate the value placed by the appellants on the bright, open space provided by their extension and the use they make of this area. However, for the reasons set out above, I am not persuaded that the proposals would result in unreasonable effects on the privacy of the occupiers.

20. Turning to the property to the north, I saw that the tall wall which separates the properties prevents any overlooking at ground floor level from the appeal property to the ground floor of the property to the north. However, the external amenity space of the appeal property is already overlooked from the upper windows of the neighbouring property to the north. The proposals would not alter this relationship at ground floor level.
21. The occupants of the property to the north are concerned that the proposed first floor windows would allow views into their main living area and external amenity space. Views northwards are already possible through the open bathroom windows of the appeal property. Whilst the proposals would bring a window closer to the boundary with the property to the north, I conclude that views would be restricted by the tall boundary wall and existing vegetation. In addition, any views would be from a bedroom, which is not commonly occupied for most of the day. I therefore conclude that any increase in overlooking (compared to what is currently possible through the open bathroom windows) would not result in an unreasonable loss in the level of privacy to buildings and land that the neighbouring property to the north may expect to enjoy.
22. I have considered whether a smaller window would further reduce any potential increase in overlooking. However, the occupiers to the west have indicated that they consider that any unobscured window, capable of being opened, would have an adverse effect on their amenity and that reducing the scale of the window would not alleviate their concerns. I do not consider it appropriate for the window to be fixed, preventing ventilation of the bedroom.
23. There was also discussion at the hearing as to whether there could be alternative ways of achieving light to an upper bedroom. However, such changes would represent a different scheme. This appeal is required to consider whether the proposals are acceptable, rather than review possible alternative solutions. For the reasons set out above, I consider the current proposals acceptable in relation to the requirements of policy GD1.

#### Other matters

##### *Policy considerations*

24. The Officer Assessment Report provides an assessment of the proposals against other policies of the Bridging Island Plan. I am content that the proposals are consistent with the spatial strategy (policy SP2), are of an appropriate design (policy GD6 and policy H1) and meet the minimum space standards set out in SPG Residential Space Standards (Oct 2023) and satisfy the SPG Residential Parking Standards (Oct 2023) (subject to a condition relating to e-charging facilities, which I consider below).
25. In their grounds of appeal, Mr Foott and Ms Syvret have referenced policy SP3 - Placemaking. This policy expresses support for development that is responsive to its context to ensure the maintenance and enhancement of identity, character and the sense of place. The proposed extension would be to the rear of the property and would have no effect on the streetscape. It would be set off the boundary with the neighbouring property to the west, which, together with the hipped roof design helps to avoid any over-bearing impacts. The design appears consistent with the character of the host property and the area. I conclude that it would satisfy the expectations of policy SP3.

### *Legal constraints*

26. It has been put to me that there are legal restrictions in place between the neighbouring property to the north and the original developers of Clos de l'Ecole relating to position of boundaries, heights of extensions, and presence and nature of windows. At the hearing, the neighbouring property to the west also referred to a general understanding of residents of Clos de l'Ecole in relation to the height of any extensions.
27. I have been provided with a copy of the deeds for the property to the north, but these are in Jersey French and no translation has been supplied. The applicant has also provided a copy of the deeds for their property. These include a requirement that no building or construction or tree shall be planted within four feet four and half inches of the boundary wall with the property to the north. There does not appear to be a restriction on windows or the height of any extensions. The appellant to the west has confirmed that their deeds are similar to those submitted by the applicant.
28. The Department has researched the planning history of the site, including the original permission granted for Clos de l'Ecole. The applicant has also provided some information on this point. They have highlighted that the permission for Clos de l'Ecole, D/1991/0207 included a condition requiring that the internal layout/rear fenestration of units 13 and 14 shall be designed so as to minimise loss of privacy to neighbouring occupiers to the north.
29. Based on the information provided, I understand that there are no planning conditions in place that would prevent the proposals, providing that they are consistent with the Bridging Island Plan. The existence of any legal agreements or restrictions would be civil matters, beyond the jurisdiction of this appeal.

### *Decision-making process*

30. I have considered the concerns from the neighbour to the north that the planning officer did not visit their property to discuss concerns and the concerns of the neighbour to the west about the decision-making process. I understand that this application was determined using the usual approach for a development within the built-up area; that it did not meet the criteria for determination by the Planning Committee, and that the planning officer felt able to assess effects on neighbouring amenity from the application site. I note the speed with which the decision was issued, but do not consider that is any reason to suggest that the correct procedures were not followed.

### **Conditions**

31. In addition to the two standard conditions relating to timescales for implementation and adherence to approved plans, the Decision Notice included a single additional condition. This requires the implementation of the obscure glazing to the Juliet balcony prior to occupation of the development. I accept that this is an appropriate and necessary condition.
32. The Officer Assessment Report highlighted a need for a condition for the development to provide e-charging facilities for electric bikes and passive charge points for electric vehicles as outlined within SPG Residential Parking Standards (Oct

2023). At the hearing, the applicant indicated that some electrical charging was already in place. Nevertheless, the Department confirmed that this condition was still applicable, and should be added to the Decision Notice, if the appeal is unsuccessful.

33. Land Resource Management recommended inclusion of an informative relating to possible presence of protected species. This was not included on the Decision Notice, but I consider it appropriate and necessary that it be appended, should the appeal be unsuccessful.

### Conclusions

34. The proposal is for an extension within the built-up area. This is the area where the spatial strategy of the Bridging Island Plan directs development. The proposals would result in changed relationships between the appeal site and properties to the north and west. The acceptability of these changes needs to be assessed within the policy framework of the Bridging Island Plan. Policy GD1 identifies that any changes should not unreasonably harm the amenities of neighbouring uses and should not unreasonably affect the level of privacy to buildings and land that owners and occupiers might expect to enjoy. The relatively tight grain of development within this part of the built-up area means that there is already a degree of overlooking between properties, including from the appeal site. For the reasons set out above, I conclude that the proposals would not result in unreasonable effects on the amenity of neighbouring uses, including privacy, and that the proposals would be consistent with the Bridging Island Plan.

### Recommendations

35. I recommend that the appeal should be dismissed, and that Planning Permission be granted subject to the conditions set out in paragraphs 31 - 33 above.

*Sue Bell*

Inspector 13 June 2025