

REPORT TO MINISTER FOR PLANNING AND ENVIRONMENT

By Graham Self MA MSc FRTPI

Appeal by Brigham Young against a refusal of planning permission.

Reference Number: P/2020/0908.

Site at: Land south of Thorpe Cottage, Westmount Road, St Helier JE2 3LP.

Introduction

1. The appeal is against the refusal of planning permission for development described in the application as: "Construct 1 no. one bed dwelling with associated parking and landscaping". In the decision notice, the development was similarly described, but with the additional words (in capital letters): "AMENDED PLANS RECEIVED".
2. The application is dated 16 July 2020.¹ Your Department's published records specify the date of the application as 17 August 2020.
3. Following consultation with the parties, the appeal is being decided by the written representations procedure. I carried out a site inspection on 23 June 2021.
4. This report includes a description of the appeal site and surroundings, summaries of the cases for the appeal parties, my assessment, conclusions and recommendation. The appeal statements, plans and other relevant documents are in the case file for you to examine if necessary.

Reasons for Refusal

5. The reasons for refusal of planning permission were:
 - i) "Whilst it is acknowledged that the site forms part of the Built-Up Area, wherein, under the provisions of Policy H6 of the Island Plan, new residential development will normally be permitted, however, the site also forms part of the Green Backdrop Zone, and under the provisions of Policy BE3 of the Island Plan, landscaping must remain the dominant element of the scene. In this instance, the application site serves as a valuable open green space which separates the existing (Grade 3 listed) dwelling at Thorpe Cottage and the Overdale site to the South. This character would be lost by the erection of a new dwelling on this land. Accordingly, it is considered that the application fails to satisfy the requirements of Policy BE3 of the adopted Island Plan 2011(revised 2014).
 - ii) By virtue of the size and shape of the site, and the proposed layout of the development, the application would result in a cramped form of development with insufficient provision of good quality private amenity space. Accordingly, it is considered that the application fails to satisfy the requirements of Policies GD1, and H6 of the adopted Island Plan 2011 (revised 2014).

¹ This is the date stated on the application form under the heading "Document upload and checklist" (the time is specified as "09:17 AM". However, there is another date – written as "8/17/2020", which I take to be 17 August 2020 – at the top of the application form.

- iii) Given that the new dwelling (and its rear garden area) is only located some 7.5m from the day care centre, it is considered that the amenities of the occupants of the day care centre will be harmed by any proposed outdoor garden use with issue of privacy and conversely from occupants of the day care centre who will be able to look directly into the garden of the new dwelling. These arrangements are considered to be unacceptable and contrary to the requirements of Policy GD1 of the Adopted Island Plan (Revised 2014).
- iv) The submitted plans indicate a sub-standard layout for on-site parking and manoeuvring, and there is insufficient off-side visibility. Accordingly, it is considered that the application fails to satisfy the requirements of Policy GD1 of the adopted Island Plan 2011(revised 2014).
- v) Insufficient information has been provided with regard to the new boundary treatment to the Southern boundary with the Overdale complex, and also with regard to safeguarding the structural integrity of the existing southern boundary (listed) wall of Thorpe Cottage adjoining, which is very close to the area of new construction. Accordingly, it is considered that the application fails to satisfy the requirements of Policies SP4, GD1 GD7, and HE1 of the adopted Island Plan 2011 (revised 2014)."

Matters Relating to the Application and Description of Proposal

6. The application now subject to this appeal was submitted by an agent, Nicholas Socrates on behalf of Socrates Architects, with the stated authority of the applicant. In these circumstances the agent and applicant are in effect acting jointly. They confirmed in the application that the applicant (Brigham Young) was an owner of the land, that there were no other owners, and that they were aware that it is an offence to submit false information with an application.² It is apparent from other evidence that the site is (or at least was at the times of the application and the appeal) owned by persons named as Guy and Sylvia Woods. The true ownership information was evidently verified by the Department before the application was decided.
7. The question in the application form "Does the proposal affect a listed building or place?"³ was answered "No". The wall along one boundary of the site is evidently a listed structure, as is the adjacent property Thorpe Cottage.
8. A question in the application form asking how many residential units currently exist on the site was answered stating the existence of one such unit. No residential units currently exist on the site.
9. In the appeal statement (under the heading "Site Constraints" on the third unnumbered page) the proposal is described as a two-bedroomed dwelling. The application specified what was proposed as a single one-bed unit (the figure "1" was stated in the box labelled "one bed" in response to the question "What is the breakdown of proposed unit sizes?"). The application drawings also show one bedroom. Previous proposals have evidently been made for the development of two-bedroomed dwellings at this site, and it seems that the reference to two bedrooms may have been mistakenly left unchanged in the statement prepared by the appellant's agent.

² The reference in the application form to "an offence to submit false information" does not fully record Article 10(1) of the 2002 Law, as the words "knowingly or recklessly" are omitted.

³ The application form apparently designed for online planning portal use has a series of questions but these are not numbered, which makes referring to them rather tortuous.

Site and Surroundings⁴

10. The appeal site is a roughly rectangular-shaped parcel of land on the west side of Westmount Road, with a frontage to that road of about 8 metres. The site extends away from the road for a length of a little over 30 metres and narrows to about 6.5 metres wide at the rear. There is a high stone wall along the northern boundary, beyond which are the grounds of a property known as Thorpe Cottage. The southern boundary is unenclosed and is next to a tarmac-surfaced access way which leads into the grounds of Overdale Hospital towards what appears to be the main vehicle parking area for the hospital complex. One of the hospital buildings (a day care centre) which has windows facing north, stands on raised ground on the opposite side of the access way.
11. At the time of my inspection most of the site was covered with rough grass and other unkempt vegetation. Most of the site is at a level well above (by about a metre) the level of the adjacent road and of the hospital entrance way. A remnant structure of what appears to have been a stone wall and gateway stands next to the Westmount Road frontage.
12. Thorpe Cottage is a listed building comprising a three-bay dormer cottage with a pair of lower wings. It stands well back from Westmount Road. At the time of my inspection building or restoration work appeared to be under way at this property.

Case for Appellant

13. The documents submitted for the appellant include the initial grounds of appeal and later statement of case. In summary, the main submissions are:
 - The application followed the refusal of permission for a previous proposal on the same site and addresses the concerns which led to the refusal. The future hospital project will involve compulsory purchase of this site and Thorpe Cottage. The application was made well before any shortlisted site was chosen and should be assessed in isolation from the hospital project.
 - As regards siting, the elevated position and appearance of the Overdale Hospital detracts from the setting of the listed Thorpe Cottage. The proposed dwelling would sit well within the context of the existing Thorpe Cottage smallholding and would integrate with it. The proposal would strongly enhance the setting of the listed building by creating a farmstead-like group of buildings including Thorpe Cottage, the proposed new, linear single storey barn and the linear but larger Overdale Hospital.
 - The proposed dwelling would be sited 500mm from Thorpe Cottage's garden wall, enough to set the dwelling apart from the wall. The wall and bank would be protected during construction. The eaves height of the dwelling would be only marginally higher than the garden wall.
 - The design of the dwelling would be based on a simplified barn typology, using local materials. HET support the design and the project.
 - The project would include landscape enhancements as set out in a submitted comprehensive landscaping scheme. The proposal would address all the points for which the previous scheme was refused and would provide a well-designed 2-bedroom (*sic*) dwelling within the built-up area, in accordance with the strategic tests of Island Plan Policies SP1 and SP2.

⁴ Views of the site are shown in the photographs in Drawing Number 1951000 PR(XX)-021.

- The proposal would be of sustainable form and pattern, making the best use of land in the built-up area and meeting Island Plan Policies GD1 and GD3. There would be no unreasonable harm to the amenities of neighbours.

Case for Planning Authority

14. The documents submitted by the planning authority include your Department's Response Statement, a planning officer's report, a report relating to a planning committee site visit and the minute of a planning committee meeting. The main points of the Department's case are:
- The site is within the designated built-up area for policy purposes under the Island Plan, where there is a general presumption in favour of the construction of new dwellings at the highest reasonable density (Policies H6 and GD3). However, this does not mean that all development is acceptable.
 - The development would not be satisfactory in respect of quality of accommodation (Policy H6), density, design, parking and amenity space, and impact on adjoining properties (Policies GD1 and GD7).
 - The site is in the Green Backdrop Zone, where under Island Plan Policy BE3 a lower intensity of building and higher degree of open space is appropriate. The proposal would involve a cramped rather than lower intensity form of development.
 - It is acknowledged that the Natural Environment and Historic Environment Teams did not object to the proposal; those aspects were not reasons for refusal.
 - The site is within the boundary of land selected as the main site for Jersey's new hospital; but the applicant has the right to have the proposal considered on its own merits.

Representations by Other Parties

15. Seven written representations are recorded as public comments on this proposal. Six of them express support for the development, generally on the grounds that it would improve the area, make good use of the land and provide an affordable dwelling. The other representation contends that the application should be refused, that Thorpe Cottage should have been put on the "Historic Register" and that questions relating to the past sale of Thorpe Cottage should be answered.

Assessment and Conclusions

16. The statements for both main parties in this case refer to the future hospital project and the related compulsory purchase of land. It seems that this appeal may be part of a land valuation process rather than an attempt to implement a development project. Nevertheless, as the planning authority say, the appellant has a right to have the proposal considered on the assumed basis that there is no new hospital and no related redevelopment in the immediate vicinity of the appeal site.
17. The main issue raised by this appeal is whether the site can satisfactorily accommodate the proposed development, having regard to relevant planning policies.
18. Because of its elongated shape, its location alongside the hospital access road, and the presence of the high stone wall on its northern boundary, any development on this site would be severely constrained. Indeed, seen from

nearby viewpoints the site looks rather like a raised roadside verge, albeit wider than many such verges. Although the designer has tried to allow for the site constraints, what is proposed would not result in a satisfactory development, in several ways.

19. The dwelling would stand within about half a metre of the northern boundary of the site and very close to the southern boundary. The lack of space around the dwelling would not provide a satisfactory residential environment. Most of the windows would be in the south elevation serving the living room, kitchen and bedroom. These windows would face directly onto what appears to be a fairly busy access way to the hospital, opposite large windows in the north elevation of the day care centre only about 8 metres away.
20. The submitted illustrations show what is labelled on the proposed south elevation (Drawing Number 1951000 GA(11)-200) as a proposed box hedge 1.8 metre high along parts of the southern boundary of the site, with a central gap. Setting aside the inconsistency between the drawing and its labelling and the appellant's statement,⁵ the lack of any screening next to the windows would result in loss of privacy for occupiers of the dwelling because of overlooking from the day care centre. Any attempt to provide a visual screen for privacy along the central part of the southern boundary would restrict the outlook and incidence of light to these windows. The passage of vehicles along the hospital access way would also be likely to cause noise and disturbance to future occupiers of the dwelling.
21. The dwelling would have a rear garden or outside amenity area measuring only about 6 metres by 6.5 metres with limited privacy. At the front of the site there would be a hard-surfaced area which would be big enough to take a vehicle or possibly two vehicles, but within which it would be difficult to turn round most cars. Even if reasonable visibility splays along the road could be achieved by having an open, unenclosed frontage, safety hazards would arise from vehicles being reversed into the road from the site, very close to the point where other vehicles would be turning into the hospital access way. Different but equally unsatisfactory hazards would be likely if vehicles were to be reversed into the site from the road.
22. Part of the appellant's case is that a comprehensive landscaping scheme has been prepared, and that the amenity space would be planted with trees and shrubs to enhance the landscape character of the site. Such an aim is in theory laudable but impractical with such a small available area, where any planting would have limited effect without itself causing loss of space or light. The "comprehensive" scheme shown on the Proposed Landscape Plan (Drawing Number 1951000 GA(10)-021 appears to propose not much more than planting some boundary hedging and surfacing the front part of the plot with granite setts.
23. From a policy viewpoint the site is in the built-up area of St Helier where Policies H6 and GD3 of the Island Plan aim to achieve the highest reasonable density of development. But policy criteria under which development should be commensurate with good design, provide satisfactory parking and amenity space and avoid an unacceptable impact on the area also need to be considered. Moreover, as the planning authority has pointed out, the site is within the designated "Green Backdrop Zone" where Policy BE3 applies, suggesting that lower density development is preferred. I judge that the general thrust of policy applicable to this case is against the proposal.

⁵ The hedge in the drawing at 1:100 scale is depicted as 1.5 metre high (not 1.8 metre), and the appellant's statement (towards the bottom of the fourth unnumbered page) describes the proposed hedge as 1.5 metres tall.

24. In making my assessment I have had regard to the argument by the appellant's agent that the design of the proposed dwelling would create a "farmstead-like group of buildings....based on a simplified barn typology....and enhances the character of the listed small holding". What the appellant through his agent calls a "simplified barn typology" would to many people be a small bungalow looking as if it had been squeezed onto a cramped site; but that is a matter for you as Minister to judge. You will also no doubt wish to consider the agent's claims that the proposed development would "strongly enhance" the setting of the listed building (Thorpe Cottage) and would meet requirements under Island Plan Policies GD1 and GD7 for high quality design. I cannot see any justification for those claims.
25. In paragraph 15 above have referred to the written submissions in support of the application, and one written objection. From the way the expressions of support are written and from the addresses of the writers (which are not close to the appeal site), I suspect that at least some of these comments have been orchestrated by the appellant. Be that as it may, in my view the representations by interested persons do not raise persuasive points either way in this case.
26. In summary, I conclude that because of its location, size and shape the site cannot accommodate the proposed dwelling whilst providing a satisfactory residential environment and access arrangements. The proposal would not be consistent with Island Plan policies on these aspects or on design quality.

Possible Conditions

27. No suggestions about possible conditions have been made by either of the main parties in their written statements. If you are minded to grant planning permission I can only suggest that in addition to the standard conditions covering the timing of implementation and compliance with submitted plans, it would also be appropriate to impose a condition preventing any development being begun until details of arrangements for protecting the listed boundary wall during construction have been submitted and approved. A Method Statement based on structural engineering advice has been submitted but a condition would be needed to formalise and control such details.

Recommendation

28. I recommend that the appeal be dismissed, thereby confirming the decision to refuse planning permission.

G F Self

Inspector

5 July 2021