

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

**Appeal under Article 108 against a decision made under Article 19 to grant
a planning permission**

REPORT TO THE MINISTER FOR THE ENVIRONMENT

made under Article 115(5)
by D A Hainsworth LL.B(Hons) FRSA Solicitor
the inspector nominated under Article 113(2) from the list of persons appointed
under Article 107

Appellant:

Miranda Lansdowne

Planning permission reference number and date:

P/2016/1742 dated 26 January 2017

Applicant for planning permission:

Joel M Kavyu

Site address:

La Maison du Mont au Pretre, La Route du Petit Clos, St Helier JE2 3FX

Description of development:

“Remove extension to North elevation. Construct single and 2 storey extension to North elevation with terrace. Various external alteration to include rooflights to West and East elevations.”

Inspector’s site visit date:

3 April 2017

Hearing date:

4 April 2017

Introduction and procedural matters

1. This is a third-party appeal against the grant by the Department of the Environment on 26 January 2017 of planning permission P/2016/1742 for the development described above.
2. The appellant has raised five grounds of appeal, three relating to procedural matters which I have dealt with in paragraphs 3 to 5 of this report, and two that concern the planning merits of the development, which are dealt with in the remainder of the report.

3. The appellant indicates that information submitted to the Department was inaccurate. This is correct, in that the small-scale site location plan was inaccurately drawn and included parts of the adjoining gardens within the application site. The large-scale site plans were, however, accurate. The error is obvious on a site inspection, since the boundaries are clearly defined by fencing, and I am not aware that anyone was misled by it. I do not consider that the planning permission is invalid as a consequence of the error.
4. It is maintained that the site notice was incorrectly displayed. It was, however, displayed in accordance with the applicable procedural requirements and the application was advertised as required. The application came to the attention of neighbours in time for them to make representations and the Department took these into account before the decision was made.
5. It is claimed that the Planning Applications Committee should have made the decision on the application. The Department were, however, authorised to determine it under delegated powers since representations from individuals were received from only three addresses.

Description of the site and its surroundings and the approved development

6. La Maison du Mont au Pretre is a two-storey house dating originally from the 17th century. It has a single-storey L-shaped extension which was added in the 1970s. The house (but not the extension) is listed under Article 51 as a building of special architectural and historical interest.
7. The property has gardens to the east and the west. Other land on the north side, formerly held with the property, was released to allow the construction of the three houses recently built on this side (Nos 1, 2 and 3 Priory Close). The appellant lives in No 2, the middle one of these houses.
8. The principal feature of the approved development is the removal of the single-storey L-shaped extension and its replacement on a similar footprint by a lower extension to the northern gable of the house, with external materials matching the house, and a single-storey projection on the west side of the lower extension that will have a contemporary design. Although described as two-storey in the application and the planning permission, the lower extension will be lower and narrower than the house and will look more like a 1½-storey enlargement.

The case for the appellant

9. The appellant maintains that the lower extension will have an overbearing impact on her house and garden and result in a loss of sunlight, privacy and openness. She questions whether the effect the lower extension will have on the north-facing gable wall and gable window of the house has been adequately assessed, having regard to the listed status of the house.

Other representations

10. The occupier of 1 Priory Close asserts that the approved development will have a harmful impact on the special interest and setting of the house as a listed building, and that the application should therefore have been refused. He also maintains that it will cause unreasonable harm to neighbouring properties. The occupier of 3 Priory Close maintains that the lower extension

will block the view of the landscape from an upstairs window and have an overbearing effect on the common areas of Priory Close. In addition, she also calls into question the effect the dower extension will have on the house as a listed building.

The case for the applicant

11. The applicant states that the existing single-storey L-shaped extension is poorly constructed and detracts from the house as a listing building. He maintains that the approved development has been designed to a high standard and that it will improve the appearance and sustainability of the house and preserve and enhance its listed status.
12. The applicant disputes that the approved development will have the effect on residential amenities claimed by the appellant and her neighbours. He points, in particular, to the difference in levels, existing overshadowing, the high fencing, the height of the approved development, the sun-path analysis and the restricted outlook from any of the windows to be installed.

The case for the Department of the Environment

13. The Department state that the extensions will have a high-quality design that will preserve the interest and setting of the house as a listed building. The singularity of the house will be maintained by the subordinate nature of the extensions and the traditional form and materials of the dower extension.
14. The Department, having taken the same factors into account as those referred to in paragraph 12 above, consider that the approved development will not unreasonably harm neighbours' amenities.

Listed building particulars

15. The listing particulars for La Maison du Mont au Pretre contain the following details:

"HE1305. Listed Building Grade 2. Residential (rural house).

Statement of significance: An important example of a 17th century rural house, with a good survival of interesting original features.

Historic interest: Circa 1660, with possible C16 origins.

External Description: 2 storey, 3 bay house. Front (west) elevation: Pantile roof, brick chimneys with thatch stones. Stone gable copings, partly rendered over. Right hand gable stone inscribed '1660'. Random granite rubble with dressed stone quoins. Chamfered window surrounds with accolade lintels. 16 pane windows. Doorway has chamfered round arch. Garden to west with double archway to courtyard - the carriage entrance arch lost and converted to piers with pyramid caps. To the right of the pedestrian arch is a carved shield with arms of Poingdestre. Walled east garden (subdivided early C21 with eastern section now associated with unlisted modern house to north). North extension to original house not included within listing.

Internal Description: Bedroom said to contain most highly decorated complete granite fireplace in Jersey (J Stevens)."

Island Plan policies

16. There are several Island Plan policies that are particularly relevant to the appeal. Extracts from these are as follows: -

- Policy SP 4:
"A high priority will be given to the protection of the Island's natural and historic environment."
- Policy HE 1:
"There will be a presumption in favour of the preservation of the architectural and historic character and integrity of Listed buildings and places, and their settings. Proposals which do not preserve or enhance the special or particular interest of a Listed building or place and their settings will not be approved.

Permission will not be granted for... 2. the removal of historic fabric, which might include roofing materials, elevational treatments (such as render or stucco) and their replacement with modern alternatives ... 3. the addition of external items, such as ... roof lights, which would adversely affect the architectural or historic interest or character of a Listed building or place, and its setting; 4. extensions, alterations and changes which would adversely affect the architectural or historic interest or character of a Listed building or place, and its setting."

- Policy GD 1:
This policy indicates that development proposals will not be permitted if they "unreasonably harm the amenities of neighbouring uses, including the living conditions for nearby residents", in particular if they "unreasonably affect the level of privacy to buildings and land that owners and occupiers might expect to enjoy" or "unreasonably affect the level of light to buildings and land that owners and occupiers might expect to enjoy".
- Policy GD 7:
"A high quality of design that respects, conserves and contributes positively to the diversity and distinctiveness of the landscape and the built context will be sought in all developments ... ". The policy adds that development will not be permitted where the design "does not adequately address and appropriately respond to ... 2. the relationship to existing buildings ...".
- Policy BE 6:
"Development proposals to alter or extend existing buildings will be approved where they:
1. respect or complement the design, detailing and materials of the existing building;
2. are sympathetic to the form, scale, mass and proportions of the existing building;
3. complement the design of adjoining buildings and the quality of the surrounding area; and
4. respect the space between buildings where it contributes to the character of the building group or surrounding area."

- Policy H 6:
“Proposals for new dwellings, extensions or alterations to existing dwellings, or changes of use to residential, will be permitted within the boundary of the Built-up Area, as defined on the Island Proposals Map, provided that the proposal is in accordance with the required standards for housing ...”. The supporting text, at paragraph 6.129, indicates that such proposals will also “need to be assessed relative to their impact on the local environment and neighbouring uses (against Policy GD 1 'General development considerations') and in terms of their quality of design and architecture (against Policy GD 7 'Design quality')”.

Inspector's assessments and conclusions

17. The main issues in the appeal concern the effect of the approved development on (1) the listed building and its setting and (2) the residential amenities of the occupiers of 1, 2 and 3 Priory Close. I have assessed these issues in turn in the following paragraphs and reached the overall conclusion set out in paragraph 30 below.

The effect on the listed building and its setting

18. The support given generally to alterations and extensions to dwellings in the Built-up Area by Policies BE 6 and H 6 is subject to the special protection given by Policies SP 4 and HE 1 to listed buildings and their settings. This is explained by paragraph 3.14 of the supporting text as follows: “It is important that changes to protected buildings and places of architectural and historic interest respect their integrity and character and do not detract from the essence of why they were Listed in the first place”. The listing particulars set out in paragraph 15 above explain why this house was listed.
19. With regard to the approved development, Policy HE 1 calls specifically for satisfactory answers to exist to the following questions. Will the architectural and historical character and integrity of the house and its setting be preserved? Will the special or particular interest of the house and its setting be preserved or enhanced? Will historical fabric be removed and replaced by modern alternatives? Will the extensions, alterations and changes or the rooflights adversely affect the architectural or historical interest or character of the house and its setting?
20. The listing particulars describe the house as “An important example of a 17th century rural house, with a good survival of interesting original features”. Its setting is now part of the Built-up Area; the setting includes the new houses built in close proximity to it within its former boundary and the contrasting single-storey L-shaped extension, which was added in the 1970s and will be demolished. The house itself has undergone significant changes during its history: for example, the roof is not original, a high-level window on the main elevation has been lost and other window frames are uPVC replacements.
21. The approved development would not result in the loss of any of the features that are referred to in the External Description or the Internal Description in the listing particulars as having special interest. In particular: the replacement roof would also have pantiles, the details of which would be subject to the Department's approval pursuant to a planning condition; the retention of the thatch stones could be secured through this condition; and the gable window

opening that would be blocked up is not one of the windows of special interest described in the particulars.

22. It appears to me therefore that the main concerns relating to matters of special interest are the effects the dower extension and the rooflights will have on the house and its setting. The dower extension will have a traditional form and be constructed with materials that match the house. It will be lower and narrower than the house. These characteristics will result, in my opinion, in it preserving the special interest of the house. The rooflights, although modern-day features, will not in my view have an adverse effect on the house's special interest as described in the listing particulars. The present-day setting of the house, as a listed building in the Built-up Area with a modern extension, as described in paragraph 20 above, would be unaffected by any of the approved development.
23. I conclude that there are satisfactory answers to all the questions posed in paragraph 19 above and that the approved development is not in conflict with Policies SP 4 and HE 1.

The effect on the residential amenities of the occupiers of 1, 2 and 3 Priory Close

24. The concerns raised by the appellant and her neighbours relate to overbearing impact and loss of a view, privacy, sunlight and openness.
25. The northern gable wall of the house faces towards Priory Close and the approved development will be built in the space between this wall and Priory Close. The applicant's land at this point is significantly lower than the land on which Priory Close has been built and there is high fencing on the boundary. As a result, viewed from ground level in Priory Close, (a) the existing single-storey extension cannot be seen, (b) the single-storey element of the approved development will not be seen, (c) only the upper part of the appellant's house is visible and (d) only the upper part of the dower extension will be seen - and it is this element of the approved development that is the cause of concern.
26. No-one's current standards of privacy will be adversely affected, since the only new windows above ground-floor level will be rooflights, which will be positioned at a high level in the rooms in which they will be installed. The privacy of part of the applicant's garden will in fact be improved, since views from upper windows in Priory Close will be more restricted.
27. Nos 1 and 3 Priory Close will be further away from the dower extension than No 2 and other effects on their amenities will be limited. The loss of sunlight will be minimal. There will be some loss of views and outlook, but the dower extension will be sufficiently far away not have an unreasonable impact. The reference to the common areas of Priory Close is to the effect the dower extension will have on the roadway leading to Nos 2 and 3: the street scene here will be less open, but not unusually so for the Built-up Area.
28. The effect on No 2, the appellant's property, will be far more significant. It seems to me, from reading the application documents and viewing her property, that until the appeal progressed it had not been fully appreciated just how close the dower extension will be. At its nearest point – between its north-eastern corner and the south-western corner of her house – the gap will be only around 2m wide, with the fence about half way between. The dower

extension will be visible above the fence from a little above its eaves height up to its ridge height, which will be almost 3m higher than the top of the fence and about 4.8m above the level of her garden.

29. The nearest part of the appellant's house and garden has significant amenity value, since this is its south-facing side that contains principal ground-floor windows and a patio. The lower extension will have an overbearing impact on the outlook from the nearest windows and from the nearest part of the patio and there will be some loss of beneficial late-afternoon sunshine at certain times of the year. To my mind, this constitutes "unreasonably harm" within the meaning of Policy GD 1 and indicates that there has been a failure adequately to respect the built context and address the relationship to existing buildings, as called for by Policies GD 7 and BE 6.

Overall conclusion

30. For the reasons explained in paragraphs 28 and 29 above, I have come to the conclusion that I should recommend that the appeal should succeed and that the decision to grant planning permission should be reversed.
31. If this recommendation is not accepted, the planning permission that has been granted should be varied by the addition of the following condition, as agreed at the hearing, to reinforce the intended height of the rooflights above floor level: -

"4. The opening part of each of the rooflights shall be no less than 1.7m above the floor of the room in which the rooflight is situated."

"Reason: To protect the amenities of adjoining residents, in accordance with Policy GD 1 of the Adopted Island Plan 2011 (Revised 2014)."

32. In addition, if the recommendation is not accepted, corrections should be made to the approved plans since, as well as the error on the small-scale site location plan referred to in paragraph 3 above, there are discrepancies relating to the number of rooflights to be installed facing west.

Inspector's recommendation

33. I recommend that, in exercise of the powers contained in Article 116(2)(a) and (d) of the Planning and Building (Jersey) Law 2002 (as amended), the appeal should be allowed in full and the decision of the Department of the Environment on 26 January 2017 to grant planning permission P/2016/1742 should be reversed.

Dated 4 May 2017

D.A.Hainsworth
Inspector