

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

**Appeal under Article 108 against a decision made under Article 19 to
refuse 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:

Sam Cannon

Application reference number and date:

P/2019/0337 dated 8 March 2019

Decision Notice date:

19 September 2019

Site address:

36 Leogran Villa, Cleveland Road, St. Helier JE2 4PB

Development proposed:

"Demolish existing garage. Construct new garage with 1 No. one bed residential unit above."

Appeal procedure

Written representations

Inspector's site visit date:

4 February 2020

Introduction

1. This is an appeal against the refusal by the Growth, Housing and Environment Department, following a review by the Planning Committee, to grant planning permission for the development described above.
2. The reasons given for the refusal of planning permission are as follows:
 - "1. The proposed development by virtue of its excessive bulk and massing, utilitarian form and close proximity to the existing dwelling to the east is considered to have an adverse impact upon the setting of this Grade 3 Listed

Building, failing to preserve or enhance the special interest of this heritage asset, contrary to the test under Policy HE1 of the Adopted Island Plan 2011 (Revised 2014).

2. The scale of the development and the physical constraints of the site, namely, the compact nature of the existing courtyard garden; and, the close proximity to the existing dwelling and adjacent residential units, are such that the proposals are considered to amount to a cramped, overdevelopment of this site, failing to deliver the requisite high standard of design, contrary to Policy GD7 of the Adopted Island Plan 2011 (Revised 2014).

3. The proposed development by virtue of the compact size of the site and unit; limited outlook from the only habitable rooms; and, the lack of any private amenity space, are such that the proposals are not considered to deliver the required adequate level of accommodation or parking provision, in accordance with the standards set out under Policy H6 (SPG6 and SPG3) of the Adopted Island Plan 2011 (Revised 2014)."

The site and its surroundings and the proposed development

3. 36 Leogran Villa is a house that faces Cleveland Road at the front and has a boundary with Croydon Lane at the rear. Croydon Lane is a narrow street that serves mainly as a rear accessway to properties which front Cleveland Road and Roseville Street on each side. It is bordered by a variety of garages, outbuildings and walls. There is a flat above the garages at the rear of No 38.
4. The development would take place next to Croydon Lane, where the house has at present a garage, a store and a gated entrance. It would consist of a one-bedroom flat above garages - a double garage for No 36 and a single garage for the flat.
5. The houses, Nos 36 & 38, are both listed Grade 3 but the listing does not extend to the buildings belonging to them which are next to Croydon Lane. Listed buildings are graded 1 to 4 in order of significance. The Statement of Significance in the listing particulars for No 36 is: "A good example of late Victorian-style villa architecture which retains its character and features. Good example with others in street of the late Victorian desire for seaside villas maximising the amount of light in the house through large bay windows".

The case for the appellant

6. The appellant makes the following points:
 - The development would be nearly identical to the flat and garages at the rear of No 38, which were approved in 2016.
 - The proposed flat is needed in order to accommodate his daughter, who is a key worker in the health service, but does not have the income to rent or buy accommodation in the open market.
 - The development would not have a harmful effect on the setting of the house as a listed building, since the reason for its listing relates to its architectural character and features in the Cleveland Road street scene.

- The parking spaces would be adequate, although marginally undersized. Parking space for every unit is no longer required by current planning policies.
- The amenity space at the rear of the house would be sufficient as an area to be shared between the flat and the house, particularly since Havre des Pas beach is less than 100 metres away and Howard Davis Park is a short walk away.
- The internal space within the flat would be above the minimum requirement.

Other representation

7. A statement has been received from Deputy Russell Labey, who states that the appellant appears to have justifiable reason to regard the refusal of planning permission as "unsafe". He considers that any harm to the setting of the listed building would be negligible since, at the rear, only a first-floor window and a roof window have "visible worth". He, as well as the appellant, refers to identical development being approved at No 38 in 2016.

The case for the Growth, Housing and Environment Department

8. The Department stand by the reasons given for refusing planning permission. They maintain that the existing buildings, although outside the extent of the listing, are clearly part of the curtilage of the house and its setting. They state that the setting would be adversely affected by the increased height of the development compared to the height of the existing buildings and by the utilitarian design of the development.
9. The Department do not consider that the development at No 38 is identical to the proposed development, since the main part of the proposed development would have a flat roof and its rear elevation would be vertical. They maintain that the mixture of styles in the proposed development would represent a poor quality of design and that the quality of the residential accommodation, although meeting internal space standards, would be poor since it would rely upon roof lights and high level windows.
10. The Department have noted that the external amenity area could be shared between the flat and the main house, although they point out that the application is for a separate independent unit. In the Department's view, this area would not meet minimum standards.
11. The Department indicate that existing car parking standards require one space for the flat and two for the house. Whether they could be relaxed, they state, is a matter to be considered on a case by case basis taking into account current Island Plan policies.

Inspector's assessments and conclusions

12. There are in my opinion two main issues for consideration. The first is, what effect would the development have on the setting of the house as a listed building? The second is whether the development would have an acceptable standard of design and amenity.

The setting of the listed building

13. Policy HE1 of the Island Plan states that there will be a presumption in favour of the preservation of the architectural and historic character and integrity of the settings of listed buildings, and that proposals which do not preserve or enhance the special or particular interest of the settings of listed buildings will not be approved. The Plan does not define 'setting' in this context, but it is generally taken to mean the surroundings in which the listed building is experienced. This may change over a period of time as the building and its surroundings evolve.
14. The proposed development does not affect the setting of the front of the house. As Deputy Labey suggests, there is little architectural or historic interest in the rear of the house. The surroundings in which the house is experienced at the rear are dominated by the two-storey extension to the house, which I understand was erected in the 1960s, by the garage and store presently on the site and the flat at No 38, which is the same height as the proposed development, and by several other modern developments that have been carried out nearby, some of which are much higher. None of the buildings at the rear have a high-quality design and many of them have a utilitarian appearance.
15. The development would not in my opinion be inappropriate in this setting. Since it would be higher than the buildings it replaced, it would partially obscure the very limited public views that exist at present of the rear windows of the original house; I do not consider that this is a drawback which is sufficient serious to lead to the conclusion that the development would fail to preserve the setting of the house, contrary to Policy HE1.

Design and amenity

16. The main factor that distinguishes the rear of No 36 from the rear of No 38 is that No 38 does not have a similar rear extension. At the rear of No 38 there was enough space to provide a flat which has an acceptable design and enjoys a full-width courtyard amenity space, whereas the distance between the rear wall of the proposed development and the rear wall of No 36's two-storey extension would be only 5.54 metres.
17. The proposed development has been designed with a vertical wall at the rear, which would contrast with the pitched roof at the front. Its shape would as a result look odd and be out-of-keeping with the development at the rear of No 38. The only windows in the flat would be rooflights in the front roof slope and high-level obscure-glazed windows in the rear wall. The occupiers of the flat would therefore have a particularly poor outlook.
18. Although the external amenity space would be restricted, the beach and the park would be readily accessible from the flat. The depth of the garages would be slightly below standard, but it is arguable that it is not necessary to provide a garage for a one-bedroom flat when it would be close to bus routes and within easy walking distance of the town centre and public facilities.
19. The drawbacks I have identified would, I assume, be acceptable to the appellants' daughter. However, the planning system should have regard to the longer-term public interest in ensuring that residential accommodation is built to an acceptable standard for all occupiers.

Conclusions

20. For the above reasons, I have concluded that on balance the proposed development would be acceptable so far as its effect on the setting of the listed building is concerned, but would not be acceptable as regards the quality of its design and the standard of residential accommodation it would provide. I have taken into account the desirability of providing living accommodation for the appellant's daughter, but this consideration is not sufficient to overcome the objections to the development.

Inspector's recommendation

21. I recommend that, in exercise of the power contained in Article 116(2)(c) of the Planning and Building (Jersey) Law 2002 (as amended), the appeal should be dismissed.

Dated 5 March 2020

D.A.Hainsworth

Inspector