

REPORT TO MINISTER FOR THE ENVIRONMENT

By Graham Self MA MSc FRTPI

Appeal by Rene and Shirley Thebault against a refusal of planning permission.

Reference Number: P/2020/0654

Site at: Haute Croix House, La Rue du Bechèt es Cats, Trinity, JE3 5DQ.

Introduction

1. The appeal is against the refusal of planning permission for development described in the application as: "Convert garage to form habitable accommodation and construct two storey extension to north elevation". The grounds for refusal stated in the decision notice dated 18 November 2020 were:
 - i) The design of the proposed extension is not appropriate relative to the existing building and significantly intensifies the use. Further to this, the height and location of the extension has a detrimental impact on the landscape character and would therefore be contrary to Policies NE7 and GD1 of the adopted Island Plan 2011 (Revised 2014).
 - ii) The design of the proposed extension relates poorly to the existing house in terms of layout, height and external appearance and therefore would be contrary to Policies GD7 and BE6 of the adopted Island Plan 2011 (Revised 2014).
 - iii) The proposal would intensify the use of the site and the inadequate visibility at the access would lead to an unacceptable impact on highway safety and would therefore be contrary to Policy GD1 of the Adopted Island Plan, 2011 (Revised 2014).
2. Following consultation with the appeal parties, this case is being decided by the written representations procedure. I carried out a site inspection on 22 June 2021.
3. 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.

Procedural Matters

4. The road name in the site address for this case has different spellings in different documents and plans (including "Bechets" or Betchet" with and without a grave accent on the send letter "e"; also "Cat", "Cats" and "Chats"). The spelling "Betchet" is used in the titles on all the application plans, but not in the application form, which names the road as: "La Rue du Bechet es Cat". The planning authority use "Rue du Bechet Es Cats" (without any accent). The road name I use in this report is correct as far as I can establish.
5. The application is date-stamped as received by Planning & Building Services on 16 June 2020. The Department's decision notice refusing planning permission is dated 18 November 2020.

6. Among the documents listed as publicly available on the planning department's website, there are some strange inconsistencies. For example, one page of the document headed "P/2020/0654 – Haute Croix House – Grounds for Appeal" is dated 9 December 2020 (at the top of the page); the second page of this document is dated 26 November 2020. At my request I have been supplied with paper copies of this document; both pages are dated 5 February 2021. The paper version also includes (near the bottom of the second page) a brief sub-headed reference to the "Design Statement",¹ which does not appear in the online version of the Grounds for Appeal document.

Site and Surroundings

7. The appeal site lies on the west side of La Rue du Bechès Cats immediately north of the junction between that road and La Rue Militaire. Another road, La Route d'Ebenezer, leads eastwards off La Rue du Bechès Cats from a junction opposite the appeal site. The topography in the vicinity is mostly fairly level and the roads are partly bordered by trees or other vegetation, particularly along La Route d'Ebenezer.
8. The entrance to the site off La Rue du Bechès Cats is bordered by stone walls and hedge vegetation. The walls are up to about 0.9 metre in height above road level with capped pillars around 1.2 metres high on each side of the entrance. At the entrance the ground slopes up into the site. Most of the front part of the site is hard-surfaced to form an extensive forecourt area.² Visibility along the road from the entrance is restricted in both directions by hedge vegetation.
9. The dwelling on the site is of single-storey bungalow form with a central north-south axis and projecting "wings" at both ends. The accommodation (based on the way rooms were furnished and appeared to be used at the time of my inspection) includes a kitchen, lounge, a study or library, two bedrooms, a dressing room, plus other rooms such as those labelled "boot room" and "storage" on the submitted layout drawing (Drawing Number 7269-01 A3 Revision P1). The northern part of the building incorporates a double garage with vehicular access from the forecourt area. During my inspection, which included the rooms labelled "boot room" and "storage", I did not see any obvious evidence of the existence of the "wool shop" mentioned in the applicant's statement.
10. As can be seen in photographs among the submitted evidence (for example, on page 11 of the appellant's Design Report headed "Site Context") various two-storey residential properties are located next to the roads to the south and west of the site. To the east and north, the land is more open and undeveloped. The area in the immediate vicinity has a generally semi-rural character, more rural to the north and east and more suburban to the south and west.

Case for Appellants³

11. The appeal documents submitted by the appellants include the grounds for appeal, a statement of case, a Design Report and final comments. In summary, the main points of the appellants' case are:

¹ The appellants' agent's references to "Design Statement" apparently refer to the document titled "Design Report".

² This part of the site is shown in the photograph on page 28 of the applicants' Design Report, also in the photographs on Drawing Number 7269-01 A4 Revision P1.

³ For the purposes of this report I treat the appellants and their agent as one body. References to the appellants should be interpreted accordingly.

- The proposed extension seeks to match the architecture of the existing building in style, proportions, materials, colours and roof pitches. The design is of high quality which respects, conserves and contributes to the landscape and built context. The extension would be either on the footprint of the existing building or over the existing parking area. Although the site falls outside the built-up area the proposal does not conflict with Spatial Strategy Policy SP1.
- The revised proposals omit a previously proposed vaulted roof to avoid any perceived overbearing on a neighbour. The privacy and amenities of immediate neighbours would be maintained in accordance with Policy GD1. The neighbouring property to the west has had plans approved for an extension with balcony which raises concerns about overlooking from that property.
- Development in the Green Zone is permissible under Policy NE7 and the site has capacity for development; the scale, location and design of the proposal would not detract from the character of the area.
- The proposal would not facilitate an increase in occupancy. An increased occupancy could result from permitted development rights for a 30 square metre extension. The appellants have outgrown their current residence and have limited space to park cars or renovate motorcycles. The existing garage is cramped.
- Following planning officer feedback, the revised scheme would be about 40% smaller than a previous scheme, with a reduced footprint and lower height, as shown by the comparison diagrams in the Design Statement. The proposal would accord with Policy GD7.
- All other properties in the area are two-storied. Haute Croix House is one of the few which are still single-storey. A two-storey extension has been permitted at a neighbouring property along La Rue Militaire (Ref P/2019/0275).
- The proposal would involve cutting back a boundary wall to improve visibility. More of the existing hedge could also be removed. A visibility splay of 2.4m by 45m for vehicles and a splay of 2.4m by 6.6m for pedestrians would be achieved as shown in submitted drawings.
- Parking for 11 cars has already been approved under application P/2010/0166. The current proposal for two additional bedrooms would not constitute a significant intensification. It would reduce parking space and therefore improve the existing situation.
- The extension would not be visible when approaching from St Helier or from the east. The height seeks to minimise its impact. The dormer windows would sit below the roofline but could be altered slightly if necessary. The dormers would not affect the amenities of any neighbours.
- The proposed extension would be directly accessible from the main habitable space and would not be intended for use as a separate unit.
- The existing property has only two bedrooms; one is sub-standard. The redevelopment would support changing family circumstances. The ground floor extension would be reserved for vehicles.
- The removal of the commercial unit (the Wool Shop) would see a domestication of the site and reduced potential for visits by vehicles.

12. The Design Report contains illustrations (including drawings and photomontages) and further information about aspects of the proposal, with sections covering a project overview, site history, policy analysis, comparisons between the current and previous applications, visibility splays, the design concept, materials and precedents.

Case for Planning Authority

13. The appeal documents submitted by the Department include a statement in response to the appeal (which refers to the officer's report on the application) and a second response with attached copy of pre-application advice. The planning authority's reasons for refusal are explained in the officer's report. Other comments are summarised below.
 - The site is located next to a junction between two main roads and is open to public view particularly from the north and east.
 - The proposal would extend the northern wing of the property towards the road. The eaves and ridge of the proposed extension would be higher than the existing parent dwelling. The two proposed dormers in the north elevation would each be 4 metres wide and would effectively be two-storey flat-roofed elements rather than sitting within the roof slope. Together with the raised eaves and ridge, the development would create a wing to the dwelling which would be taller and more imposing than any of the existing dwelling.
 - The increase in floor area would be much greater than the 42 square metres claimed by the appellant, as this figure excludes all of the proposed first floor accommodation. The total floorspace of the proposed development would be 130.85 square metres, including 88.85 square metres at first floor.
 - The use of part of the property as a wool shop follows planning permissions issued before the adoption of the current Island Plan. The use is understood to relate to one room which was later extended and is low key.
 - The scale and design of the proposal would not satisfy Island Plan Policies GD1, GD7 and NE7. Policy NE7 in particular sets a general presumption against all forms of development in the designated Green Zone, except for certain exceptions. One such exception is extensions to dwellings where specified criteria are met. Past increases in size of the dwelling are relevant as explained in the supporting text to Policy NE7.
 - The highway authority's concerns are reflected in the third reason for refusal. The site is next to a busy junction and existing visibility at the access is inadequate. The proposal would be likely to increase the intensity of use. The full visibility splay to the north cannot be achieved.

Assessment and Conclusions

Preliminary Comment

14. Before considering the main issues raised by this appeal it is necessary to clarify the following matter.
15. Much (though not all) of the appellants' case is written using incorrect verb tenses. The present tense is frequently used - for example: "The extension is not visible"; or: "The dormers do not adversely affect the amenities of neighbouring users". Sometimes the future tense is used - for example: "The proposal will be a vast improvement...".

16. The application subject to this appeal is not seeking retrospective planning permission for development already carried out, and the extension does not exist. So - to take the examples I have quoted - it is a matter of indisputable fact that the proposed extension is not visible and does not affect any neighbour's amenities. The future tense is also incorrect, since the future depends on whether planning permission is granted and/or implemented.
17. Such faults are fairly common in appeal statements and it does not normally seem worth mentioning them in a report, but I do so in this instance because they are repeated so frequently as could cause confusion. As far as I consider feasible without altering the appellants' arguments, I have corrected them using future conditional verbs in the case summary above; but if in the course of deciding this case you read the submitted statements, similar translation will be needed.
18. The Department's written submissions stray into the wrong verb forms sometimes but to a lesser extent than those of the appellants. The Department's grounds for refusal are also inconsistently worded, parts of Ground 1 being incorrectly in the present tense ("the height and location of the extension has a detrimental impact") whilst Ground 3 uses the future conditional.

Description of Proposed Development

19. The description of the proposal in the application refers to an "extension to north elevation". Although the extension would be at the northern end of the dwelling, what is proposed would be an extension eastwards from the east elevation of the existing dwelling (the front elevation facing the road). The extension would not project beyond the existing dwelling's north elevation. A more accurate description would therefore be "extension to east elevation". I do not suggest that at this late stage steps to change the description are necessary, but I record this point here to avoid any possible misunderstanding.

Main Issues and Assessment

20. The appeal raises two main issues: first, the effect of the proposed development on the remaining rural or semi-rural character of the area; and the possible road safety implications. These issues have to be considered in the light of relevant planning policies. The site is outside any designated built-up area and lies within the Green Zone for the purposes of planning policy.
21. On the first issue, seen from some viewpoints in the surrounding area (as illustrated in the photomontages on pages 32-35 of the appellants' Design Report and in Drawing Number 7269-01 B8 Revision P1) the visual impact of the proposed development would be quite limited. The extension would not be visible from La Rue Militaire to the south-west and depending on the season, most fairly distant views of the extension from the surrounding area would be partly or largely obscured by trees or other vegetation.
22. However, from some nearby locations the extension would be quite prominent. One example is the junction where La Route d'Ebenezer meets La Rue du Bechè es Cats,⁴ from where the already large extent of the building at the appeal site would be made even more noticeable by the addition to it. The proposed removal of some roadside vegetation, whilst having highway safety benefits, would also make the extension more conspicuous. La Route d'Ebenezer appears to be fairly

⁴ No photographs from this location have been submitted in evidence. The "existing" and "proposed" photographs on page 34 of the submitted Design Report or View 2 on Drawing Number 7269-01 B8 Revision P1 are from a position near, but not at, this junction.

well used, as part of the east-west route across the north of the island. The upper part of the extension including the large flat-roofed dormer-type features would also be seen from the north, the degree of prominence depending on the precise viewpoint and time of year.

23. As is pointed out in submissions for the appellants, various features of the extension such as finishing materials would be designed to accord with the existing dwelling. In some locations the extension might well be unobjectionable. Here, however, there are policy reasons for resisting the proposal. The extension would form a noticeable and significant enlargement to the existing dwelling, which has evidently already been enlarged to the north, south or south-east and west after previous approvals. Under Policy NE7 of the Island Plan there is a general presumption against all types of development in the Green Zone. Extensions to dwellings are permissible under this policy subject to various criteria. This proposal would not meet those criteria – among other things it would double the number of bedrooms and so would “facilitate significant increased occupancy” (criterion (b) of those applying to the extension of a dwelling).
24. The appellants’ agent has contended that the proposal would not facilitate a significant increased occupancy. This argument appears to be based on the declared intentions of the current owners. It ignores the fact that ownership and occupation could change at any time. The added accommodation would make an increase in the number of normal residential occupiers probable or likely in the longer-term future.
25. The increased height of the proposed extension compared with the existing building, combined with the large, flat-roofed dormer-type structures⁵ and the site’s raised level compared with the nearby road, would also make the extension disproportionately prominent to an extent which would give the area a more urban character and so take away some of its remaining rural character. Taking into account its forward-projecting position, its height and its bulk, the extension would not be visually subordinate to the main dwelling.
26. The fact that there are two-storey dwellings nearby, one of which has recently been the subject of a planning permission for enlargement which may have a “suburbanising” effect, is not a good reason for allowing this development. The extension would not relate well to the wider landscape setting of the site, and in this respect the proposal would conflict with Island Plan Policy GD7, as well as Policy SP1 which applies outside Jersey’s designated built-up areas and seeks to control development not appropriate to the countryside.
27. Other policies mentioned in the reasons for refusal appear to be of less direct relevance but I judge that the proposal would affect the character of the local area to a degree which would conflict with paragraph 2(c) of Policy GD1, and would not complement the existing building or surrounding area as required by Policy BE6.
28. In this location it is appropriate to look for good reasons before making an exception to normal Island Plan policy against adding to built development in the Green Zone. I do not find such reasons in the available evidence. The appellants’ references to “changing family circumstances” are vague. The reason for wanting more ground floor space is evidently to help the appellants to pursue

⁵ I describe these features in this way as their north elevations would extend upwards from eaves level and would not be set within the roof slope like a normal dormer. They would both be substantial features at first floor level with large glazed areas and Juliet balconies.

a hobby involving motorcycle renovation, but that would not reasonably apply to the provision of two large first-floor bedrooms and related facilities.

29. Turning to the matter of the access layout and road safety, the proposals to re-position parts of the boundary wall and cut back vegetation would improve the current situation. But as I have commented above, these steps would make the development more visually intrusive and would take away some of the area's rural or semi-rural quality. Even with the changes proposed, the field of view, particularly in the more critical nearside direction southwards along the road from the access (and from the south towards the access) would be below normal modern standards, and the highway authority say it should be improved. Although the appellants say that a visibility splay of 2.4 by 45 metres for vehicles would be achieved, the revised visibility splay diagrams (Drawing Number 7269-01 B11) show a splay extending to only 32 metres southwards, and even this would not cover the nearside edge of the carriageway. Having regard to these points I consider that the highway authority's concerns as reflected in the third reason for refusal are justified.

Other Matters

30. In addition to what I have identified as the main issues, my comments on other points raised on behalf of the appellants follow.
31. The existing garage has internal dimensions of about 6 metres long by 5.7 metres wide, fairly typical of a double garage though perhaps the width is a little less than ideal for such use. Whether the appellants' description as "cramped" is apt depends on factors such as vehicle size and how occupiers of the property choose to use the garage.
32. The appellants state that "the proposed extension is [*sic*] directly accessible from the main habitable space". It is difficult to see the basis for that claim, since the proposal would not include any means of internal access between the existing dwelling and the proposed bedrooms.
33. Reference has been made to the provisions of the General Development Order potentially permitting a house extension of up to 30 square metres in external area.⁶ This GDO allowance is subject to height and other restrictions, and excludes structures in front of a dwelling's principal elevation. The proposed extension would also have an external area much greater than 30 square metres. So this is not an instance where there is a "fall-back" argument that a similar or only slightly smaller-scale scheme would be permitted by the GDO.
34. Part of the appellants' case is that the footprint of the proposed extension would be only 42 square metres in area, on a site having an area of about 1,610 square metres. This comparison does not take into account the area already occupied by the existing dwelling including its past extensions, or the fact that a footprint area figure does not reflect the volume or visual bulk of what is now proposed. The proposed development would not be as large as a previous scheme (for which planning permission was refused), but that is not a significant point in its favour, since each application has to be judged on its own merits.
35. The statement that the appellants have "outgrown their current residence" is unexplained and has limited weight as an argument for permitting the proposal. The appellants' desire for improved room sizes and for an additional study (I refer to "additional" here because one of the existing rooms appears to be a study-

⁶ This figure refers to total aggregated external area of any structures or buildings erected under Class A of Part 1 of Schedule 1 of the GDO since 1 June 2007.

cum-library) could be met by means other than this proposal. Neither these nor any of the other arguments put forward for the appellants provide compelling reasons to set aside the policy-based and other objections to the development.

36. The appellants (through their agent) have stated that they are open to suggestions about making changes to the proposal and that the "dormer windows" could be altered if necessary. At this appeal stage, the proposal has to be assessed as proposed. It is not for me to re-design it or attempt to suggest alterations.

Conclusion

37. I conclude that there were good reasons for the decision to refuse planning permission and I do not see justification for overturning it.

Possible Conditions

38. Your Department has suggested that if planning permission were to be granted, conditions should be imposed covering the provision of visibility splays and to ensure that the extension could not be used independently from the main dwelling. The appellants have indicated that such conditions would be acceptable. If you are minded to allow the appeal, I consider that those controls would be appropriate, in addition to the standard conditions covering compliance with approved plans and the time limit for implementation. I suggest that the wording for the non-standard conditions could be as follows:

1. The development hereby permitted shall not be occupied until the alterations to the wall and planting at the site entrance as shown in Drawing Number 7269-01 B11 have been carried out. The visibility splays thereby provided shall be retained and shall not be obstructed by any structure or vegetation.
2. The accommodation hereby permitted shall not be used or occupied other than for purposes ancillary to the residential use of the dwelling at Haute Croix House, and shall not be sold or let for use or occupation separately from Haute Croix House.

Recommendation

39. I make two linked recommendations:
1. I recommend that the appeal be dismissed and that the refusal of planning permission be confirmed for the reasons stated in the original decision notice, except for the amendments recommended below.
 2. I also recommend that the first reason for refusal as stated in your Department's decision notice be amended by deleting "significantly intensifies" and substituting "would significantly intensify", and by deleting "has a detrimental impact" and substituting "would have a detrimental impact".

G F Self

Inspector

5 July 2021