

**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

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**Appellant:**

James Wells

**Planning permission reference number and date:**

P/2021/1533 dated 24 February 2022

**Applicants for planning permission:**

Paul Aubert & Caroline Baptist

**Site address:**

Les Hauts Vents, La Rue du Nord, Trinity JE3 5AH

**Description of development:**

"Raise roof to create first floor habitable space. Demolish conservatory to South-West elevation. Various internal alterations"

**Inspector's site visit date:**

13 June 2022

**Hearing date:**

14 June 2022

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**Introduction and procedure**

1. This is a third-party appeal against the grant by the Infrastructure, Housing and Environment Department of planning permission for the development described above. The permission was granted subject to the standard planning conditions relating to the commencement of the development and compliance with the approved details and to a further condition 1. relating to the testing of the current drainage system before work commences.
2. The reason given for the grant was: "Permission has been granted having taken into account the relevant policies of the approved Island Plan, together

with other relevant policies and all other material considerations, including the consultations and representations received". The policies referred to in the approved Island Plan are those in the Revised 2011 Island Plan. They are no longer applicable to the appeal decision following the plan's replacement by the Bridging Island Plan in March 2022.

3. The appeal is therefore proceeding on the basis that the Bridging Island Plan is now the Island Plan for the purposes of Article 19 of the Law. This article provides that (a) in general planning permission shall be granted if a development is in accordance with the Plan, (b) it may be granted where it is inconsistent with the Plan if there is sufficient justification for doing so, or (c) it may be refused.

### **The Bridging Island Plan policies**

4. Les Hauts Vents is a bungalow to the north-west of Trinity. It is one of two adjacent dwellings that are in a rural location outside the built-up area and in the green zone. The other dwelling is the appellant's house, La Maison du Nord.
5. Policy SP2 "Spatial strategy" of the Bridging Island Plan states that outside the built-up area, within the countryside, development can be supported where it involves the extension of existing buildings.
6. Policy NE3 of the Plan states that development in the green zone must protect or improve landscape character. It indicates that applicants for planning permission will need to demonstrate that a proposal will neither directly nor indirectly, singularly or cumulatively, cause harm to Jersey's landscape character and will protect or improve the distinctive character, quality, and sensitivity of the landscape character area, as identified in the Integrated Landscape and Seascape Assessment.
7. The landscape character area identified in this instance is Character Type E: Interior Agricultural Plateau, Area E2: North Coast Farmland. The Assessment identifies this Area generally as having a strong sense of openness, elevation and exposure, with little settlement in the more exposed parts, but with buildings in more sheltered locations along an inland margin that includes the bungalow. The Assessment advises that extensions to buildings here should be of similar scale and form to traditional rural buildings and that their impacts on views and landscape character must be considered.
8. Policy PL5 of the Plan states that development in the countryside generally should protect or improve its character and distinctiveness. It makes provision for the extension of existing buildings.
9. Policy H9 of the Plan deals with residential development outside the built-up area. It states that this will not be supported except in certain circumstances, the first of which is:
  - "1. in the case of an extension to an existing dwelling it remains, individually and cumulatively, having regard to the planning history of the site, subservient to the existing dwelling and does not disproportionately increase the size of the dwelling in terms of gross floorspace, building footprint or visual impact."

10. Extensions must also be assessed having regard to Policy GD1 of the Plan, which is headed "Managing the health and wellbeing impact of new development". The relevant provisions of Policy GD1 are:

"All development proposals must be considered in relation to their potential health, wellbeing and wider amenity impacts, and will only be supported where:

1. the development will not unreasonably harm the amenities of occupants and neighbouring uses, including those of nearby residents, and in particular, will not:
  - a. create a sense of overbearing or oppressive enclosure;
  - b. unreasonably affect the level of privacy to buildings and land that owners and occupiers might expect to enjoy;
  - c. unreasonably affect the level of sunlight and daylight to buildings and land that owners and occupiers might expect to enjoy; ...".

### **The case for the Infrastructure, Housing and Environment Department**

11. The Department state that in principle the policies allow for extensions to dwellings in the green zone, subject to detailed considerations relating to the impact on the area and on neighbouring property. In this instance, they maintain that the design of the development and the impact on the area would be acceptable, and they point out that there would be no increase in the number of bedrooms. As to the impact on the appellant's property, the Department emphasise that the test is whether the appellant's amenities would be unreasonably harmed. The Department accept that this is a matter of judgment dependent on the site-specific circumstances arising at each location. The Department's assessment in this instance is that the development would not have an unreasonable impact on the appellant's privacy or level of light.

### **The case for the appellant**

12. The appellant maintains that the development would be out of character with his own property, since this is a traditional granite property dating from around 1765, and with the area generally, because La Rue du Nord is a quiet rural lane with low-density housing mostly of traditional construction. He indicates that Les Hauts Vents is in a prominent and noticeable position on the Road.
13. The appellant raises the following concerns about the raising of the roof of Les Hauts Vents on the amenities of his property. He maintains that it would be overbearing because of its height and proximity, and result in a loss of aspect; that because it would be to the south of his property, it would block sunlight particularly in the winter months; and that the new windows at roof level would result in his master bedroom being affected by light pollution.

### **The case for the applicants**

14. The applicants maintain that there are many examples of similar works being carried out in the green zone without detriment to landscape character. They state that Les Hauts Vents is one of only two properties on La Rue du Nord for which planning applications to increase habitable space have not been

submitted in recent times and that La Maison du Nord itself has been extended. They state that their development has been designed to create a 1½-storey house on the same footprint, which would be appropriate in a locality that includes two-storey dwellings and a variety of building styles. They maintain that the development would make a positive contribution to the appearance of the site and its surroundings by using a simple pallet of materials, including weatherboard cedar cladding and natural roof slates, and that it would provide for the needs of their growing family.

15. The applicants maintain that the design of the development has been carefully considered, so as to avoid any harm to the amenities of La Maison du Nord. They point out that: only the gable end of the raised roof would face towards La Maison du Nord; there would be no windows in the gable end; all the first-floor windows would face away from La Maison du Nord so as not to overlook the house or its garden; the roof would be raised at the eaves and the ridge by only 1.7m; La Maison du Nord has outbuildings on its boundary next to the gable end; and the house itself would be between 7m and 12m away from the raised extension, with the outbuildings between the two. They maintain that light pollution could not occur and that there would be little change in the sunlight received by the house or in the outlook from its windows.

### **Other representations**

16. Several other representations have been received at the application and appeal stages. All are in support of the development, except those from the National Trust for Jersey. The supporting representations point to the inadequate design of Les Hauts Vents for family occupation, the design quality of the proposed improvements and the varied nature of the properties along La Rue du Nord. The National Trust's representations were submitted at the application stage; they refer to the absence of a design statement (the applicants' Design & Planning Statement was submitted later) and maintain that the proposals would be overdevelopment that would cause serious harm to landscape character contrary to planning policies.

### **Inspector's assessments and conclusions**

17. The Bridging Island Plan accepts in principle that the bungalow can be extended (see Policies SP2, PL5 and H9 and Policy NE3 combined with the advice in the Integrated Landscape and Seascape Assessment, which are all summarised in paragraphs 5 to 9 of this report). The considerations that determine whether this particular extension complies with these policies are (1) its effect on the character of the countryside and the landscape in this location and (2) its relationship with the existing bungalow as regards the matters specified in Policy H9.
18. The location contains agricultural land with intermittent clusters of houses and other buildings and a more concentrated area of housing at the north-western end of La Rue du Nord. The developments range in style and size from substantial two-storey dwellings to bungalows and in the scale and variety of their associated outbuildings. The age of the developments extend from traditional to recent and there are many examples of adaptations and extensions having been carried out.

19. The bungalow was built in the 1980s on land that was previously within the curtilage of La Maison du Nord. It is pitched-roofed and has an uncomplicated appearance typical of small bungalows built at this time.
20. The development would be a modest upwards extension to make use of the roof space and to make the dwelling more suitable for family occupation without a disproportionate increase in floorspace. The extension would be subservient to the existing bungalow and the building footprint would be slightly less after the removal of the conservatory.
21. Although the bungalow is in a fairly obvious roadside location and contrasts with the more traditional (though much altered) appearance of La Maison du Nord, it is after some forty years a well-established feature of the countryside and the landscape here. The development would alter the visual impact of the bungalow, but its new appearance would add distinctiveness to its rather plain existing appearance without harming views of the countryside or the landscape character of the area. Policies SP2, NE3, PL5 and H9 would all be complied with.
22. Turning now to Policy GD1, I concluded on my visit to La Maison du Nord that the applicants' description of the development and its impact on the appellants' amenities, as set out in paragraph 15 of this report, is accurate. It is the case that the apex of the gable end would have some effect on the outlook from upper-floor windows in La Maison du Nord, but it could not create a sense of overbearing since it would be too small in extent and too far away. The apex may also for short periods during winter affect the amount of sunlight reaching a small part of La Maison du Nord, but this would not in my opinion be significant enough to amount to an "unreasonable" effect on the level of sunlight that its owners and occupiers might expect to enjoy. The development would not be conflict with Policy GD1.
23. For the above reasons, I have concluded that the appeal should be dismissed.

### **Planning conditions**

24. It became apparent during the hearing that two matters not spelt out in detail on the approved plans should be dealt with by imposing additional planning conditions. Firstly, the materials and finish to be used in the cladding should be agreed, to ensure that the extension has a satisfactory appearance. Secondly, the dormer window serving the house bathroom at the rear of the extension should be confirmed to be obscure glazed, since it would be possible to obtain an oblique view of the nearest part of the appellants' house from here. I have dealt with these matters in paragraph 26 below.

### **Inspector's recommendations**

25. I recommend that the appeal is dismissed.
26. I recommend that the planning permission P/2021/1533 dated 24/02/2022 for development at Les Hauts Vents, La Rue du Nord, Trinity JE3 5AH, consisting of the raising of the roof to create first-floor habitable space, the demolition of the conservatory on the south-west elevation and various internal alterations, is varied by imposing the following new additional conditions: -

2. No development shall take place until details of the materials and the finish to be used in the construction of the external timber cladding shown on the approved plans have been submitted to and approved in writing by the Chief Officer responsible for planning. The development shall be completed in accordance with the approved details before the first-floor habitable space is occupied and shall be retained thereafter.

Reason: To ensure that the development has a satisfactory appearance in accordance with Policy GD6.2 of the Bridging Island Plan.

3. The first-floor habitable space shall not be occupied until the house bathroom dormer window shown on the approved plans has been fitted with obscured glazing. The obscured glazing shall be retained thereafter.

Reason: To protect the privacy of La Maison du Nord in accordance with the provisions of Policy GD1 of the Bridging Island Plan.

Dated 25 July 2022

*D.A.Hainsworth*

Inspector