

PLANNING AND BUILDING (JERSEY) LAW 2002

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:

Neil Fauvel

Application reference number and date:

P/2023/0233 dated 4 April 2023

Decision Notice date:

28 September 2023

Site address:

Les Ecaliers, La Rue de Fremont, St. John JE3 4DA

(Note. The name of the property has been incorrectly referred to as "Les Escaliers" in many of the plans and documents. Les Ecaliers is understood to refer to mounting stones.)

Proposed development:

"Remove roof slates and install roof insulation, reinstate slates. Replace smaller zinc rooflight with new double-glazed rooflight. Remove larger zinc single-glazed (rotten), infill opening and reinstate roof finish using reclaimed slates. Install two new dormers to East face of roof."

Inspector's site visit date:

1 February 2024

Introduction

1. This is an appeal against the Chief Officer's decision to refuse planning permission for the proposed development. The reason given for the decision is:-

"1. The proposal by virtue of its scale, location, material, design and arrangement, would result in an incongruous, prominent development that will have a detrimental material and visual impact on and will fail to preserve the

special established character of the host listed building and its established setting. The proposal, thereby, fails to meet the strict tests of policies GD6, HE1, SP4 [of] the Adopted Bridging Island Plan 2022.”

2. The current application is a resubmission following the refusal of planning application P/2021/1848 on 1 September 2022. The proposed development has now been redesigned by making the dormers smaller and more decorative, but it is otherwise the same as the one that was refused. In spite of this, the resubmitted application has been refused for a more wide-ranging reason than the previous application. The reason previously given by the Chief Officer, which the current application sought to overcome, was:-

“1. The proposed dormer windows to the existing roof are not considered as an appropriate addition to the simple and vernacular single storey cottage, contrary to Policy HE1 and HE2 of the Bridging Island Plan, 2022”.

Details of the property, its surroundings and the proposed development

3. Les Ecaliers is a cottage with an extension, outbuildings and adjoining land, which occupy a corner plot where there are two acute bends in the road. This is a rural area where there is sporadic development, most of which is next to the roadside. There are six other dwellings in the vicinity, five adjoining La Rue de Fremont and one next to La Rue ès Nonnes. Four of these are listed buildings. The unlisted ones are a large two-storey house directly opposite Les Ecaliers and a modern bungalow a short distance to the north. All the listed buildings apart from Les Ecaliers have dormer windows that are visible from the roadside and are similar to the ones proposed at Les Ecaliers.
4. A corner stone on Les Ecaliers indicates that the original cottage was built in 1700. Probably in the late 19th century, the walls were raised, cement-rendered brick chimney stacks were added, the roof timbers were replaced and the cottage was re-roofed at a higher level with slates. This allowed a central staircase to be installed and two small rooms with restricted headroom to be provided in the loft space. During the 20th century, a flat-roofed extension was added at the rear of the cottage and the windows and door at the front were fitted with PVC replacements. The fascia and rainwater goods at the front are also modern replacements.
5. The two proposed dormers would be installed on the 19th-century front roof plane, above the PVC windows. This roof plane already contains the rooflights referred to in the application, the smaller of which would be replaced by a double-glazed unit of the same size, the larger of which would be removed entirely and replaced by matching slates.
6. The submitted plans describe the dormers as 'late Victorian style'. They would have slate-covered pitched roofs, the ridge of which would be about 250cm lower than, and at right-angles to, the roof ridge of the cottage. The dormers would have 4-pane timber-framed sash windows with glazed side cheeks. The sash-window frames would be 828cm wide and 947cm high.
7. The area is part of the Protected Coastal Area, but the Infrastructure and Environment Department have confirmed that the proposed development will not result in any material harm to the setting and character of this Area. The Department have also confirmed that the proposed development will not adversely affect any neighbours' amenity.

Listing particulars

8. Les Ecaliers was listed as a building of architectural and historical importance (Grade 3, reference JN0145) in 2018. The listing particulars' Statement of Significance is as follows:

"Single storey cottage and outbuilding with circa 1700 origins, retaining historic character and some early features in both buildings including fireplace and datestone."

The cottage is described in the listing particulars as follows:

"single storey, attic, 5 bay; pitched slate roof, rendered chimneys to ends, 2 roof lights in east pitch. Front (east) elevation: granite rubble and dressed granite, long roughly dressed quoins, early gable kneeler with initials and dated 1700. Central pvc door, pvc windows. Side (south) elevation: granite rubble, long roughly dressed quoins, attic window, drip stone, pvc frame. Rear (west) elevation: granite rubble to north, render to south, single storey modern extension along centre, timber sash window, 4 pane (2/2), horns."

"2 room, single pile, central hallway and staircase. In south room large granite fireplace, smaller fireplace in north room, possibly modern. Panelled timber doors in stud walls. Attic with 2 rooms and large granite lintel in wall of south gable."

Planning policies and guidance

9. The decision refers to Policies GD6, HE1 and SP4, which it describes as setting strict tests.
10. Policy SP4 is a strategic policy relating to the protection and promotion of island identity. It states that any development that affects a listed building and/or its setting will need to protect or improve the site and its setting, in accordance with its significance.
11. Policy GD6 is a general development policy relating to design quality. It states: "A high quality of design that conserves, protects and contributes positively to the distinctiveness of the built environment, landscape and wider setting will be sought in all developments, in accord with the principles of good design."
12. Policy HE1 relates specifically to the protection of listed buildings and their settings. It states: "Proposals that could affect a listed building ... or its setting, must protect its special interest." The supporting text states on page 133 that this means that the special interest of listed buildings "should be kept safe from harm and conserved in a manner appropriate to their significance".
13. Policy HE1 continues "All proposals should seek to improve the significance of listed buildings" Significance in this context refers to the listing grade of the building. Les Ecaliers is listed as grade 3. The significance of buildings listed grade 3 is described on page 130 of the plan as:

"Buildings and places of special public and heritage interest to Jersey, being important, good quality examples of a particular historical period, architectural

style, building type, or archaeological site; but with [alterations] that reduce the special interest and/or have particular elements worthy of listing.”

14. Supplementary planning guidance (SPG) *Managing change in historic buildings and places* was published in January 2024. The SPG has a proviso in its Introduction, as follows: “It is important however to emphasise the word ‘guidance’ as this is not intended as a set of inflexible instructions; there is no intention to fetter designers or discourage innovation”.
15. The SPG states that the listing of a building should not be seen as a bar to all future change, but indicates that there should be a general presumption in favour of the protection and improvement of the character and integrity of listed buildings, except where a convincing case can be made for their alteration.
16. The SPG advises that the issues that are generally relevant to the consideration of all planning applications affecting a listed building are (i) the significance of the building (its intrinsic architectural, archaeological, historic or other interest and rarity), (ii) the particular physical features of the building which justify its protection (which may include its design, plan, materials or location) and (iii) the building’s setting and its contribution to the local scene.
17. Specifically, as regards roofs, the SPG states that the roof is nearly always a dominant feature of a building and the retention of its original structure, shape, pitch, cladding and ornament is important. As to dormers, the SPG advises that any decision as to whether new dormers can be added to a roof must be approached carefully; it points out that historic roof structures must not be damaged by their insertion and that they should not upset the symmetrical design of the building.

Representations submitted by the appellant

18. The appellant has received expert advice. He has submitted a Design and Heritage Impact Statement dated February 2023, prepared by his architects, and a Statement of Case dated 21 November 2023 prepared by an RICS Certified Historic Building Professional. I have summarised the main points made in these statements in paragraphs 19 to 22 below.
19. The cottage has been within the appellant’s family for several generations. The dormers will be a traditional, sympathetic solution to improving the natural light, ventilation and headroom within the existing bedrooms and will bring enormous benefits to the interior of the property and to the quality of the living accommodation. They will match those evident in nearby properties and will have a style associated with the age of the roof , in keeping with cottages of this type and age.
20. The historic character displayed by the property is now one of an 18th century cottage substantially altered in the 19th and 20th century. The walls of the earlier building remain, but all the other parts are now 19th or 20th century. The roof and chimneys in particular are obviously 19th century: the original building was probably either thatched or pantiled and would have had a single granite masonry chimney. These were often taken down in the second half of the 19th century and replaced with brick chimneys.

21. The policy test is not one of appearance alone, however, rather whether the addition of dormer windows would protect the special interest of the building. One test would be to ask whether, if dormers were added, the listing grade of the building would alter. The expert believes it would not, as very little historic fabric would be affected (some rafters) and the special features mentioned in the particulars of listing (kneeler stones, date stone and fireplace) would not be affected.
22. The significance of the building now lies in its altered state (as recognized by its listing grade) and later 19th century appearance. Adding traditional 'late Victorian style' dormer windows would not impair its significance and would contribute to local character. There are many examples of late 19th century dormer windows on earlier cottages and houses in Jersey, all of which add to local distinctiveness, as they are a traditional feature.

Representations made by the Infrastructure and Environment Department

23. The Department have not submitted a Statement of Case or responded to the appellant's Statement of Case. In paragraphs 24 to 27 below I have summarised the Department's representations by drawing on the planning officer's Application Assessment Sheet and the responses to the Department's consultations with the Historic Environment Team, including the documents available online in relation to the previous planning application P/2021/1848.
24. The Historic Environment Team object to the proposed development on the basis that the building's "simple vernacular form, which is increasingly rare, would be negatively impacted by the provision of the dormers". The Team have indicated that the other proposed works would be "generally acceptable" and have not commented on the setting of the building.
25. The Team maintain that the property is an unusual example of a single-storey cottage dating back to the 1700s. It is a simple vernacular building in which the focal point rests on its single-storey element. The early date and simple unrelieved roof is a key part of the character of the building. This significance should be retained in any proposals for change. Whilst the desire for better headroom is understood, the impact of the dormers on the character of the eastern elevation would be detrimental to the simple form of the building.
26. The Team state that the argument based on other listed buildings in the locality having dormers is of limited benefit as it fails to acknowledge that each case is based on its own merits. In some of the other cases, it is possible that a different set of circumstances led to the provision of dormers, including the buildings being of a different age, the dormers having originally been in situ or the dormers being a historic, yet inappropriate, intervention.
27. The Department have added that, given the corner site location and proximity to the road, the proposed dormers would be a prominent feature in the street scene. This has led to the addition to the previous reason for refusal.

Other representations

28. The Natural Environment Team stated that, if the application was approved, a planning condition should be imposed requiring the implementation of the mitigation measures in a previously-approved Bat Survey Results Report.

29. No observations have been recorded from any external organisations or from the public during the course of the application and the appeal.

Inspector's assessments and conclusions

30. There are shortcomings in the persuasiveness of the Department's case. Firstly, the expert advice presented by the appellant in his Statement of Case dated 21 November 2023 has not been disputed. Secondly, the assertion that Les Ecaliers has a form "which is increasingly rare" is not meaningful in the absence of any supporting evidence being provided by the Department. Thirdly, the dismissal in general terms of the appellant's argument, based on other listed buildings in the locality having dormers, is an insufficient response when the appellant had drawn specific attention to these buildings in the Design and Heritage Impact Statement, and identified them on a plan and supplied photographs of them.
31. Two of these listed buildings, Fremont House (JN0152) and Beau Regard (JN0024), have single-storey residential accommodation similar to Les Ecaliers, but with dormers at the front. The listing particulars for Fremont House indicate that the single-storey part had two modern glazed chequered dormers and a small roof light when it was listed in 2013; these did not preclude it from being given a Statement of Significance as a rural property of 17th/18th origins retaining historic character. The listing particulars for Beau Regard indicate that when it was listed in 2018 it was a single-storey cottage with small modern dormers; this did not preclude it from being given a Statement of Significance as a mid-19th century cottage retaining some original historic features including good quality stonework and contributing to rural streetscape character.
32. These examples support the appellant's contention that the proposed dormers at Les Ecaliers would not affect its listing. It would still be, as it is listed, a single-storey cottage with two rooms in the attic, with c1700 origins, retaining historic character and some early features. It would continue to contribute to local character and the dormers would not have an adverse impact on the street scene, since they are modestly-sized, well-designed in accordance with Policy GD6 and in keeping with the other examples in the surrounding area.
33. In paragraph 4 above, I recorded "Probably in the late 19th century, the walls were raised ... and the cottage was re-roofed at a higher level ...". This information was derived from the appellant's Statement of Case and it was confirmed by what the expert showed me at the site visit. The information is however not recorded in the listing particulars and the Historic Environment Team appear to have been unaware of it when they advised on 12 August 2022 that "The early date and simple unrelieved roof is a key part of the character of the Listed building hence the continued resistance to the addition of modern dormers, regardless of how well designed".
34. The SPG *Managing change in historic buildings and places* was published during the course of this appeal. The Department were invited to submit further appeal representations related to the SPG if they wished to do so, but none were received. As recorded in paragraph 17 above, the SPG advises that any decision as to whether new dormers can be added to a roof must be approached carefully, historic roof structures must not be damaged by their insertion and they should not upset the symmetrical design of the building. In this appeal, the evidence demonstrates that the dormers would not be

inserted into a historic roof structure and there has been no suggestion that the cottage has a symmetrical design that would be upset by the dormers. The special interest of Les Ecaliers that justified its inclusion on the List of Sites of Special Interest would be protected in accordance with Policies SP4 and HE1.

35. "Listing doesn't freeze a building or place in time. Change to the fabric of listed buildings and places and their settings is inevitable due to the need to maintain and adapt them in response to social, economic and technological change." (Bridging Island Plan p133). In this appeal, the proposed change derives from the desirability of enhancing the living conditions of the cottage by adding headroom in the bedrooms and improving the outlook from them, making the cottage more energy efficient and carrying out essential works of repair. The proposed development would manage these changes whilst preserving the historical and architectural authenticity and legibility of the listed building.

Inspector's recommendation

36. I recommend that the appeal is allowed and that planning permission is granted for the following development at Les Ecaliers, La Rue de Fremont, St. John JE3 4DA:

"Remove roof slates and install roof insulation, reinstate slates. Replace smaller zinc rooflight with new double-glazed rooflight. Remove larger zinc single-glazed (rotten), infill opening and reinstate roof finish using reclaimed slates. Install two new dormers to East face of roof"

in accordance with the application P/2023/0233 dated 4 April 2023 and the plans and documents submitted therewith, subject to the following conditions:-

Standard conditions

- A. The development shall commence within three years of the decision date.

Reason: The development will need to be reconsidered in the light of any material change in circumstances.

- B. The development shall be carried out entirely in accordance with the approved plans and documents.

Reason: To ensure that the development is carried out as approved.

Additional condition

1. The mitigation measures in the approved Bat Survey Results Report (ref. NE/ES/LE.02, 12 July 2022, Nurture Ecology) shall be implemented prior to the commencement of the development, continued throughout the development (where applicable) and thereafter retained as approved. Any variations that may be required as a result of findings on site must be agreed in writing by the Chief Officer prior to works being undertaken.

Reason: To protect and improve biodiversity in accordance with Policy NE1 of the Bridging Island Plan.

Approved plans

Location Plan dated 04/04/2023

Existing Site Plan Dwg No. P001

Existing Plans, Sections and Elevations Dwg No. P002 Rev. A

Existing Roof Section Dwg No. P003

Proposed Roof Works Dwg No. P0004 Rev. A

Proposed Dormer Window Section Detail Dwg No. P005

Proposed Dormer Window Plan, Section + Elevation Detail Dwg No. P006

Dated 5 March 2024

D.A.Hainsworth
Inspector