

STATES OF JERSEY

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

APPEAL OF A DECISION UNDER ARTICLE 108

REPORT TO THE MINISTER FOR PLANNING AND ENVIRONMENT

by Mr Philip Staddon BSc, Dip, MBA, MRTPI

an Inspector appointed under Article 107

APPEAL BY: Mr and Mrs Thorne (Third party appellants)

AGAINST: Grant of planning permission for a proposal to *demolish existing buildings. Construct 4 No. four bed dwellings with associated parking and landscaping.* Decision dated 24 July 2015

LOCATION: The Cedars and Cote du Sud, Le Clos du Roncheres, St Brelade, Jersey, JE3 8FG.

REFERENCE: P/2015/0663

APPEAL PROCEDURE: Hearing – 8 December 2015

SITE VISIT: 7 December 2015

DATE: 4 January 2016

Introduction

1. This report contains my assessment of the appeal made by Mr and Mrs Thorne. This is a 'third party' appeal and is made against the decision of the Department of the Environment to grant planning permission on 24 July 2015 for a residential development of four two storey detached houses on a site next to the Appellants' home.
2. I held a Hearing on 8th December 2015. The Appellants' were represented by their daughter, Ms. T. Harrison. Other participants included the applicant, the Applicant's agent and representatives of the Department.

The appeal site

3. The appeal site is situated in the most northerly part of the St. Brelade built up area, and just to the south of the airport. Clos du Roncherez is a private road that serves 19 dwellings, most of which are bungalows. Two of the bungalows, The Cedars and Cote du Sud, along with their gardens, form the appeal site. The site covers some 0.13 hectares and is more or less square in shape. The bungalows are modest in scale - one is a two bedroom dwelling, the other a three bedroom design.
4. Although the character of Clos du Roncherez is residential, there is commercial development in close proximity. Immediately to the north of the site there is a substantial building that is used as a vehicle repair garage (Falles Garage); this forms the backdrop to the site. There is also commercial development to the west, although this is more open and includes car parking and a car wash; there is a vehicular access to these premises from Clos du Roncherez.
5. To the east of the site is a bungalow, Stoney Ridge, which is sited at a lower level than the appeal site, along with the Appellant's home, Pez Espada, which, although originally constructed as a bungalow, has been extended over time and is now a two storey house. Immediately to the south (on the opposite side of the road) is a bungalow known as Gueneil.

Planning history

6. An earlier application for the erection of 5 no. houses on the site (P/2014/0795) was refused in August 2014 and that decision was maintained by the Planning Applications Panel in December 2014. There were four reasons for refusal, which, in summary, related to over-development, undue impact on the amenity of neighbouring properties, poor design and highway safety concerns.

The appeal proposal

7. The appeal proposal involves the demolition of the existing bungalows and their replacement with 4 no. four bedroom two storey detached houses, along with attached garaging. The layout would effectively be one dwelling in each quarter of the roughly square site, served by a central access drive from Clos du Roncherez. The dwelling designs are simple with plain rendered walls and pitched and hipped roofs.

8. The application was considered by the Planning Applications Panel at its 23 July 2015 meeting. It resolved by a majority to endorse the officer recommendation to grant planning permission subject to conditions.

The grounds of appeal

9. The Appellants' grounds of appeal can be summarised:
 - The development is considered unacceptable in terms of highways and road safety considerations.
 - The appeal proposal represents over-development of the site.
 - The houses will result in overbearing impacts and loss of amenity to neighbouring properties.
 - The scheme is of a poor design.
 - Objectors' views have not been properly considered.

The Island Plan 2011 (Revised 2014) – policy considerations

10. The Island Plan has primacy in decision making on planning applications. There is a general legal presumption that development in accordance with the plan will be permitted and development that is inconsistent with the Plan will normally be refused.
11. The Plan's overarching spatial strategy is set out in Policy SP 1. It seeks to concentrate new development within the Island's built-up area, which is clearly defined on the Plan's proposals map. Policy H6 gives general support for new housing development within the built up area. As the appeal site lies within the built up areas, these policies offer broad support for the principle of a residential development in this location. This 'principle' of development is not a contested issue in this appeal, rather it focuses on the more detailed policy objectives, requirements and judgement criteria set out below.
12. Policy GD 1 sets out 'general development considerations' against which all planning applications are assessed. These include sustainability, environmental impact, impact on neighbouring uses and occupiers, economic impact, transport and design quality.
13. Policy GD 3 seeks to ensure that *'the highest reasonable density is achieved for all developments, commensurate with good design, adequate amenity space and parking...and without unreasonable impact on adjoining properties.'*
14. Policies SP 7 and GD 7 require developments to achieve a high quality of design. GD 7 includes a detailed set of criteria against which schemes will be assessed.

15. The Supplementary Planning Guidance (SPG) document *A Minimum Specification for New Housing Developments* (2009) is also of some relevance.

Discussion and assessment

16. Given that the principle of a residential development in this location is accepted and accords with the Island Plan, I focus my assessment here on the specific grounds of appeal.

Highways and road safety matters

17. The existing junction of Clos du Roncherez and Pont du Val (the main road to which it connects) is restricted in width and substandard in terms of modern day visibility splay requirements. However, it serves a relatively limited development (19 dwellings and access to the commercial car parking area) and has no known accident history.
18. Due to these technical shortcomings, the Department's highway officer could not support any potential intensification. This position was maintained in respect of the earlier (5 house) and the appeal (4 house) schemes.
19. Some improvements are possible through the fitting of traffic mirrors and the creation of an informal passing place (by the new site access) which will assist vehicle movements within Clos du Roncherez. There was also some discussion at the Hearing about the potential to close the access to the commercial premises (which I understood to be within the Applicant's control) but, as it is not part of the proposals before me, I cannot give it any weight in my assessment.

The question of overdevelopment

20. The Island Plan seeks not only to direct new development to the built up area, but also to maximise density on development sites within it. These are strong sustainable development principles and ensure that development happens in the right places and that urban land is used as efficiently as possible.
21. Policy GD 3 does not prescribe a minimum density on small sites although the companion text makes clear that the density of existing surrounding development should not dictate that of new schemes, which, with imaginative design and layout, could achieve higher densities without compromising the local environment or the amenities of neighbouring properties¹. Clearly, a balanced judgement is called for.
22. The immediate surrounding residential area is low density. By my calculations, the density of the existing Clos du Roncherez development works out at about 16 dwellings per hectare (dph). The appeal proposal would be at almost double that density; it works out at 30.2 dph.

¹ Revised Island Plan 2011 - Paragraph 1.8

23. That level of density is not particularly high by modern residential development standards. However, density is more than a simple product of dwelling numbers per hectare. In this particular case, the dwellings are all two storey 4 bedroom designs and each has 4 parking spaces; the bedroom density is therefore relatively higher. Furthermore, the proportion of built coverage is substantial – deducting the ‘green’ garden areas (using the architect’s stated figures for the main gardens and ‘secondary’ areas) from the site area suggests that about two thirds of the site (66%) would be built on (dwellings, garages, roads, parking). That is quite high in my view, given the suburban character of the locality on the fringes of the built up area.
24. A related factor here is the proposed garden sizes for the new dwellings. Whilst they all meet the minimum standards set out in the SPG (which says that gardens should never be less than 50 square metres) they are quite limited, given the size of dwellings which seemed to be aimed at family occupation. Plot 1 would have a useable garden area of just 68 square metres and, whilst the other three are larger, they are still quite limited and the usability of the space may also be affected by the adjacent commercial operations; on my site visit, the noise from the commercial activities was quite noticeable and could be quite intrusive in the gardens of the proposed dwellings on plots 2 and 3.

‘Overbearing’ impacts and loss of amenity

25. The impacts on the three closest neighbouring properties need to be considered. These are Gueneil, Pez Espada and Stoney Ridge.

Gueneil

26. Gueneil lies opposite the site and its north side elevation (which contains two windows) would face the proposed development. Although the aspect would change, I consider that there would be no undue impact on this property. The development would be on the opposite side of the street and on the north side, so there would be no overshadowing. The siting of the house on plot 4 offsets the main bulk of the building from the main window view and there are no first floor overlooking windows. Whilst there may be some overlooking from first floor windows on the Plot 1 house, this is an oblique relationship and not unreasonable in my view.

Pez Espada

27. The proposed Plot 1 dwelling would occupy a similar position in relation to the street as Pez Espada (the Appellants’ property). I consider this relationship to be reasonable and conclude that the Plot 1 house will not result in any undue massing or overlooking effects. The proposed Plot 2 dwelling, to the rear of the site, will have a greater impact on Pez Espada. Although there would be no undue overlooking effects, it would be a relatively large house (this elevation would be 11 metres in length) and its two storey bulk and roofscape, in proximity to the Pez Espada boundary (about 7 metres away), would create some adverse impacts. In addition to the sheer massing effect, it would result in some overshadowing of the

garden and parts of the property itself, although this would be confined to later in the day.

Stoney Ridge

28. Stoney Ridge sits at a lower level than the appeal site. This bungalow has a south facing courtyard garden and the rear of the bungalow includes a kitchen and a bedroom (closest to the appeal site). The Plot 2 dwelling would be sited to the south-west of the bungalow, under 7 metres from its boundary, and at a slightly higher land level. Although first floor overlooking effects have been designed out (through the use of high level and obscure glazed windows), the physical massing impact of the house on Stoney Ridge would, in my view, be particularly severe and overbearing (and more so than on Pez Espada). There would also be notable overshadowing of the property later in the day (as the sun sets in the west).
29. At the Hearing, the Appellant's agent explained the use of a line projected upwards at 45° from the plot boundary line to define an 'area of infringement' (and the new dwelling would not breach it). However, it became clear that this 'rule' was drawn from a central London borough and is not in my view comparable or applicable in this case.

Design

30. The Island Plan's requirement for high design quality is clearly articulated in Policies SP 7 and GD 7. Taken as individual architectural entities, the house designs are simple and inoffensive and some may regard them as quite pleasant. However, in my view the scheme design, when assessed in its context, has a number of shortcomings.
31. First, it is cramped and uncomfortable and this is a direct product of trying to accommodate four relatively large houses, along with garaging and parking (4 spaces per dwelling) on to a restricted plot. Second, the scheme fails to positively address the streetscene, which is an important first principle of good design – one dwelling turns its back on the street whilst the other would have no visible habitable room windows facing the road. Third, the overall design appears to be more a response to meeting minimum technical standards and responding to constraints than an exercise in achieving the best possible design.

Consideration of objectors' views

32. Although I share some of the objectors' views on the merits of the scheme, my findings should not be interpreted as any criticism of officers or Committee members. These types of development proposals are some of the most difficult in the Planning caseload to assess. They involve making difficult and, in part at least, subjective judgements. In this case, the Panel members had visited the site and its majority decision seems to be an indication that the consideration was finely balanced.

Conclusions and recommendation

33. The principle of the appeal proposal accords with the broad thrust of the Island Plan's spatial strategy and its objectives of securing sustainable development. Indeed, the 'recycling' of tired low density sites within the built up area to deliver higher density housing schemes is likely to be important in delivering the homes required in a sustainable manner. The broad planning principle of redeveloping the site has not been contested. Rather, the appeal has focused on issues of whether the scale, impacts and details of the scheme are acceptable when considered against the more detailed policy requirements set out in the Island Plan (and to an extent the SPG).
34. In terms of highway concerns, I share the view of the Department that, whilst the existing access arrangements are not ideal, it would be difficult to sustain a refusal of planning permission on this ground alone, given the limited increase in dwelling numbers served (19 to 21) and the absence of any accident history. In this particular case, I consider that the positive benefits (delivering homes in the built up area) outweigh the technical shortcomings in the Planning balance. However, I do question whether designing new family houses each with 4 parking spaces can be seen to support the Island Plan's objective of 'reducing dependence on the car' (Policy SP 6). Perhaps fewer car parking spaces, along with secure cycle parking, would be more appropriate to help support that objective and lessen concerns about increased traffic and the junction.
35. However, I do have serious concerns about overdevelopment. Clearly, the Applicant wishes to maximise the amount of saleable floorspace and the Island Plan wishes to achieve the highest density reasonably possible. The previous scheme was judged to be an overdevelopment and cramped. Although this scheme has reduced dwelling numbers from 5 to 4, the actual build coverage is not much different and the bedroom count is similar (17 previously, 16 in the appeal proposal). In my view, the scheme would appear very dense, cramped and oppressive. Indeed, very little of the site would not be developed in some way (houses, garages, roads, path and hard surfaces) and the gardens would be very small for what are relatively large family homes.
36. The quantum of development proposed leads to some inevitable impacts on neighbouring properties. Whilst some of these have been designed out, either through the layout or the use of high level and obscure glazed windows, others have not. The sheer massing effect, along with consequent shadowing impacts, of the Plot 2 house on its neighbours is severe and unacceptable in my judgement.
37. As a direct consequence of all of the above, the scheme fails to achieve a high standard of design. The design is not altogether poor, but it is a product of wrestling with too many constraints and demands, which cannot fit comfortably on the site. As a consequence, it does not achieve the high standard of design required by the Island Plan.

38. I conclude that this third party appeal should be allowed and I recommend that the Minister should refuse to grant planning permission for the following reasons:

Reason 1: The proposed development, by virtue of the excessive scale, mass and site coverage of the houses, garages, parking spaces and hard surfaces, would represent a cramped and unsatisfactory over development of this small site that would be harmful to the character and appearance of its surrounding suburban built context. As such, the proposal conflicts with Policies GD 1, SP 7 and GD 7 of the Revised Island Plan 2011.

Reason 2: The proposed dwelling on Plot 2 would, by virtue of its siting, scale, height and proximity, result in overbearing massing impacts, along with the loss of daylight and overshadowing, on the neighbouring properties at Stoney Ridge and Pez Espada. This would be contrary to Policy GD 1 that seeks to protect the amenities and living conditions of existing neighbours.

Reason 3: As a consequence of the matters set out in reasons 1 and 2, the proposed scheme fails to achieve the high standard of design that Policies GD 1, SP 7 and GD 7 demand of new developments in Jersey.

P. Staddon

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