

**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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**Appellants:**

Charles and Fiona St. Clair-Bolam

**Planning permission reference number and date:**

P/2015/0274 dated 23 July 2015

**Applicant for planning permission:**

Starlight Properties Ltd.

**Site address:**

Land at the rear of Alanda, Le Clos de la Vallée, La Vallée de St. Pierre,  
St. Lawrence JE3 1EG

**Description of development:**

The construction of a two-bedroom single-storey dwelling.

**Site visit date:**

11 January 2016

**Hearing dates:**

12 and 13 January 2016

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**Introduction and procedural matters**

1. This is a third-party appeal against the grant by the Planning Applications Committee on 23 July 2015 of planning permission P/2015/0274 for the development described above.
2. I opened the hearing on 12 January 2016 and adjourned it to the following day to facilitate the attendance of the appellants, who were on their way back from a trip abroad. The hearing was resumed on 13 January 2016 with one of the appellants, Mr Charles St. Clair-Bolam, in attendance and it was concluded on that day.

### **The site and the surrounding area**

3. The site consists of a part of the former rear garden of Alanda that has been separated from the remainder of that property. A vehicular access way leads to the site from Le Clos de la Vallée, between Alanda and Britannia House, and continues past the site to give access to the rear of the appellants' property and the rear of Le Bordage, both of which have main road frontages.
4. The site is within the Built-up Area for planning purposes. It is surrounded by two-storey houses of a variety of types. The density of the surrounding housing is quite high.

### **The case for the appellants**

5. The appellants state that the development will adversely affect the residential amenity of its neighbours, by reason of noise, disturbance and loss of privacy, and that it will be overbearing, out-of-scale and out of character with the area. They maintain that it will be an over-development of the site at an unacceptably high density and that its visual impact will be out of character with its surroundings. In their view, the amount of parking space that will be provided is insufficient and the access way will be blocked by parked vehicles. They maintain that the additional traffic will not be accommodated safely in Le Clos de la Vallée.

### **Representations made by other interested persons**

6. The appellants' concerns are reiterated in the other representations that were received at the application stage. Additional concerns that were raised in these representations refer to loss of openness, loss of outlook and loss of light to neighbouring property, and to the design of the dwelling, which it is maintained will be deficient in natural light.

### **The case for the applicant**

7. The applicant states that the concerns relating to overshadowing and overlooking that led to the refusal of an earlier application have now been satisfactorily addressed. The applicant maintains that the development will have a low impact and will not be conspicuous, that it will not have a detrimental impact on the neighbourhood and that the arrangements for vehicular access and parking will be satisfactory. In their view, the development complies with the relevant planning policies and standards.

### **The case for the Department of the Environment**

8. The Department state that the provision of additional housing in the Built-up Area is in accordance with the strategic policies in the Revised 2011 Island Plan, and with Policy H 6 of the Plan, and that the development will comply with the Department's standards for room sizes, amenity space and parking provision. Other matters, such as the development's impact on the character of the area, on neighbours' amenities and on traffic conditions necessitate a subjective judgement being made, in the Department's opinion.
9. The Department accept that the site is relatively small, that the area is quite tightly developed and that the site is located between Alanda, the appellants' property and other properties to the east and west. It is also accepted that

the development will be visible from the surrounding properties and from the access. However, the dwelling will be single-storey and in the Department's opinion it will be a reasonable distance from other properties, so as not to result in it being unreasonably overbearing, and that as the windows will be at ground-floor level or be rooflights other properties will not be overlooked.

10. The Department do not consider that the addition of this small two-bedroom dwelling will result in a material or significant increase in the number of vehicles in the area or within the access way. The access way will not be used as a parking area in the Department's view.
11. The Department state that the key test in assessing the impact of development on neighbours is in Policy GD 1, which refers to development only being unacceptable where it results in unreasonable harm. The Department point out that the strategic policies in the Plan encourage better use of urban land and the highest reasonable density of development, and that development in the Built-up Area is therefore likely to have some impact upon the character of the area and the amenities of neighbours. In the Department's view, these are issues that require a balancing exercise to be carried out when planning proposals are assessed.
12. The Department indicate that all the matters referred to above were taken into account in the assessment of the application. On balance, it was considered that the development would not cause unreasonable harm, or alter the overall character of the area, or lead to unacceptable problems of traffic generation and safety or parking. It was concluded that the development would comply with Policies SP 1, 2, 3, 4 & 6, GD 1 & 7 and H 6 of the Plan and that planning permission should be granted.

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

#### *The policy considerations and their assessment in relation to the development*

13. Policy SP 1 states that development will be concentrated in the Built-up Area and Policies SP 2 and 3 emphasise sustainability and the need to make the most efficient and effective use of land. Policy H 6 indicates that new dwellings will be permitted in the Built-up Area, provided they comply with the housing standards that apply in relation to matters such as internal room sizes, amenity provision and parking. The site is in a sustainable location within the Built-up Area and the development will meet these standards. Whether the development will in fact make the most efficient and effective use of the site depends in my view on a balanced assessment of the various considerations that arise.
14. Policy SP 4 gives priority to the protection of Jersey's natural and historic environment. There is no reason to believe that the development will cause harm in this respect.
15. Policy SP 6 includes criteria relating to accessibility, traffic and parking, which are also referred to in Criterion 5 of Policy GD 1. The site is well-placed so far as accessibility to the main road network and bus services is concerned. I appreciate the concerns of nearby residents, but it does not seem to me that the amount of traffic likely to be generated by this small dwelling will add unacceptably to the traffic already using Le Clos de la Vallée or the access

way. Two car parking spaces will be provided on the site, clear of the access way; since these should be sufficient for the needs of the occupiers of a dwelling of this size and their visitors, it is unlikely that the access way will be obstructed by parked vehicles on a regular basis or that the existing parking conditions in Le Clos de la Vallée will be unacceptably affected.

16. Criterion 3 of Policy GD 1 relates to amenity considerations, the principle being that development "will not be permitted unless [it] ... does not unreasonably harm the amenities of neighbouring uses, including the living conditions for nearby residents". In particular, Criterion 3 refers to privacy, light and noise.
17. The low profile of the dwelling and the presence only of ground-floor windows and rooflights will ensure that neighbours' standards of privacy and light are protected. The dwelling will, however, intrude on the openness of neighbours' outlook and neighbours are likely to be disturbed in particular by activity in the parking area, which will generate noise in a location that used to be a quiet rear garden area near to their own rear gardens.
18. Policy GD 7 relates to design quality and refers to the principles of good design set out in Policy SP 7, which requires all development, taking into account its various components, to be "of high design quality that maintains and enhances the character and appearance of the area of Jersey in which it is located". Policy GD 7 states that a "high quality of design that respects, conserves and contributes positively to ... the built context will be sought" and that design that "does not adequately address and appropriately respond" to a list of criteria will not be permitted. Policies SP 7 and GD 7 are also referred to in Criterion 6 of Policy GD 1, which indicates that development will not be permitted unless it is "of a high quality of design ... such that it maintains and enhances the character and appearance of the Island".
19. In addition, Policy GD 3 is applicable. It states that the Minister "will require 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".
20. In my view, the development will not integrate well into its surroundings. This is not a locality where backland housing has been built before. The locality's character and appearance are defined by houses that have conventional road frontages and undisturbed private rear gardens that meet up in the area where the development will take place. Furthermore, the development will be cramped, even though it will comply with the housing standards referred to above. This is apparent from the very restricted outlook that its occupiers will have, due to the limitations imposed by the size of the site and the proximity of the dwelling to the site boundaries, and by the amount of rear garden space that will be retained for Alanda, which will be well below the norm for a house of its size.
21. For the reasons set out in the preceding paragraph, I do not consider that the development will achieve the design quality standards called for by the policies to which I have referred in paragraphs 18 and 19. Specifically, its layout and form when fully assessed will not make a positive contribution to local character and sense of place, which is one of the components of Policy SP 7, and its design does not adequately address and appropriately respond to

Criteria 1 and 2 of Policy GD 7 as respects its scale, form, siting and outward views and its relationship to existing buildings and settlement form and character.

*The balancing exercise*

22. I turn now to the balancing exercise, which the Department indicate should be carried out when planning proposals are assessed and which was carried out in this instance (see paragraphs 11 and 12 above). As the Department have acknowledged, this requires a judgement to be made about the weight to be attached to the various considerations that have arisen and a reasoned and balanced conclusion to be reached.
23. The Plan's strategic policies directed at sustainability and at making the most efficient and effective use of land, concentrating development in the Built-up Area and meeting housing needs in that Area, will inevitably lead to proposals for new dwellings that affect neighbours and the surrounding area in ways that, to varying degrees, may be unwelcome. The other policies I have referred to seek to address these concerns by introducing the concept of unreasonable harm and by setting design standards.
24. In this instance, in my opinion, too much emphasis has been placed on the fact that the development will comply with strategic policies and will meet the housing standards relating to internal room sizes, amenity provision and parking, and that in some respects neighbours' amenities will be protected. Insufficient regard has in my view been attached to the concerns I have identified in paragraphs 17, 20 and 21 above. When these concerns are fully assessed, it seems to me that far more weight should be attached to them, sufficient in my opinion to tip the balance against the acceptability of the development, notwithstanding its compliance with the Plan in other respects.

*Conclusion*

25. For the reasons explained above, I have come to the conclusion that I should recommend that the appeal should succeed and that the decision to grant the planning permission should be reversed.

**Inspector's recommendation**

26. I recommend that, in exercise of the powers contained in Article 116(2)(a) and (d) of the Planning and Building (Jersey) Law 2002 (as amended), the appeal should be allowed in full and the decision of the Planning Applications Committee on 23 July 2015 to grant planning permission P/2015/0274 should be reversed.

Dated 1 February 2016

*D.A.Hainsworth*

Inspector