

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

Appellants:

Mr & Mrs H Kundinger

Planning permission reference number and date:

P/2015/0485 dated 2 July 2015

Applicants for planning permission:

Mr M & Mrs C Le Feuvre

Site address:

La Hauteur Cottage, La Route du Mont Mado, St John JE3 4DN

Description of development:

The construction to the north of the existing dwelling of a three-bedroom dwelling with a single garage.

Site visit date:

11 January 2016

Hearing date:

12 January 2016

Introduction and procedural matters

1. This is a third-party appeal against the grant, under delegated powers, of planning permission P/2015/0485 on 2 July 2015 for the development described above.
2. The grounds of appeal include assertions that there were shortcomings in the way in which the Department of the Environment dealt with the application. The Department does not accept these assertions. They do not affect my ability to assess the planning merits of the development thoroughly. I do not consider that it is my role to investigate this matter.

3. The grounds of appeal question the appropriateness of the application being determined under delegated powers, although the appellants accept that the adopted procedures were complied with. They have invited me to recommend that the application be remitted for determination by the Planning Applications Committee, if it is procedurally possible to do so. I do not consider that I have the authority to do this.
4. I am satisfied that I have all the information I need to compile this report and to make my recommendation.

The site and the surrounding area

5. The site is the northern part of the rear garden of La Hauteur Cottage and it has a frontage to La Rue de la Mare des Prés. It adjoins the southern part of the appellants' property, Treetops, where there is an open-air swimming pool and an adjacent sitting-out area. Windows in the southern part of Treetops face the site. There is a high wall on the boundary between the two gardens.
6. The site is within the Built-up Area for planning purposes and the area directly surrounding it is residential in character.

The case for the appellants

7. The appellants are not opposed in principle to the construction of a dwelling on the site, but they are concerned about the height and proximity of the northern gable of the dwelling that has been proposed. They maintain that its appearance will be overbearing and that it will cause some overshadowing of the swimming pool and sitting-out area. For these reasons, they state that the development fails to comply with Policy GD 1 of the Revised 2011 Island Plan.

Representations made by other interested persons

8. Other interested persons raised concerns at the application stage about the overlooking of property to the west (on the opposite side of La Rue de la Mare des Prés) and about the arrangements for access and parking.

The case for the applicants

9. The applicants state that the dwelling has been carefully designed as a 1½-storey house with accommodation in the roof space and with its principle elevations facing east and west, with the intention that facing Treetops there will be a gable wall which has a limited mass and no windows. They accept that the dwelling may cause some overshadowing at certain times, but maintain that the high wall between the gardens and the even higher hedgerow on the roadside already affect the amount of sunlight enjoyed in the vicinity of the swimming pool.

The case for the Department of the Environment

10. The Department point out that the dwelling will be set in 1.2m from the boundary with Treetops, that it will be about 18m from Treetops itself and that its maximum height will be 7m. In these circumstances, the Department do not consider that it will have an overbearing impact on Treetops or have an unreasonable effect on the amount of sunlight enjoyed by Treetops.

11. As to the representations made by other interested persons, the Department maintain that unreasonable harm will not occur to anyone's residential amenities and that the arrangements for access and parking comply with highway safety and parking standards.
12. The Department conclude that the development complies with Policies SP 1, GD 1, GD 7 and H 6 of the Revised 2011 Island Plan.

Inspector's assessments and conclusions

The effect of the development on the appellants' residential amenities

13. The Department's measurements are accurate and the applicants' statement that the gable wall facing Treetops will have a limited mass is a reasonable description. The features of it that will be seen from Treetops above the boundary wall are the triangular-shaped section from the eaves upwards, topped by a chimney, and the sides of the dormers, which will be set back further along the roof planes. There will clearly be some impact on the outlook from Treetop's windows and pool area, but the height and width of the gable wall will be modest in scale and the distance between the windows and the gable wall will be substantial.
14. The extent to which the development will reduce the amount of sunlight enjoyed in the pool area has not been quantified and is difficult to assess. The information available to me indicates that at certain times of the year the western portion in particular will not receive sunlight for as long in the day as it does at present. There will therefore be some harm in this respect to the standard of amenity currently enjoyed by Treetops.

The representations made by other interested persons

15. The western elevation of the dwelling will be set back from the roadside and the house on the other side of the road will be sufficiently far away to avoid overlooking taking place, beyond what is normal between dwellings on opposite sides of a road.
16. The development will include a new vehicular access from the road, in a position that is sufficiently far away from the junction with La Route du Mont Mado to allow for safe manoeuvring. The access will meet normal visibility standards. Parking spaces will be provided for the development and existing properties in accordance with approved guidance.

Policy considerations and overall conclusion

17. Policy SP 1 states that development will be concentrated in the Built-up Area and Policy H 6 indicates that new dwellings will be permitted in the Built-up Area, provided they comply with the housing standards that are required in relation to matters such as internal room sizes, amenity provision and parking. The development will meet these standards.
18. Criterion 3 of Policy GD 1 indicates that development will not be permitted if it unreasonably harms the amenities of neighbouring uses, including the living conditions for nearby residents; it lists several factors in particular, one of which is the level of light that buildings and land might expect to enjoy.

19. Policy GD 7 relates to design quality. It seeks to promote development that respects its built context and requires development to adequately address and appropriately respond to a list of criteria, amongst which are scale, form, massing, siting and relationship to existing buildings.
20. The Plan's strategy of concentrating development in the Built-up Area and meeting housing needs in that Area will inevitably lead to proposals for new dwellings that affect the amenities of existing dwellings and the existing relationship between properties. Policies GD 1 and GD 7 seek to address these concerns and to strike a balance. In this instance it seems to me that, although the appellants will experience some reduction in the standard of amenities that they currently enjoy, the development has been designed so as to achieve the principles set out in Policy GD 7 and that the harm to amenities will not be 'unreasonable' so as to bring the development into conflict with Policy GD 1.
21. For the reasons explained above, I have therefore concluded that the appeal should not succeed and that planning permission P/2015/0485 should not be reversed or varied.

Inspector's recommendation

22. I recommend that, in exercise of the power contained in Article 116(2)(c) of the Planning and Building (Jersey) Law 2002 (as amended), the appeal should be dismissed.

Dated 1 February 2016

D.A.Hainsworth

Inspector