

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

Appellant:

Mrs Patricia Holt

Planning permission reference number and date:

RP/2015/0937 dated 3 August 2015

Applicant for planning permission:

CW Construction Limited

Site address:

La Haute Pierre, La Rue de Samarès, St. Clement JE2 6LY

Description of development:

Construct sunroom to Unit 3, second floor. Increase floor space of Unit 2, second floor, to provide additional bedroom and increase area of second-floor balcony. Remove first-floor terrace to south elevation of Unit 2. Various external alterations, including fenestration changes. (Revisions to planning permission P/2014/1900.)

Site visit date:

11 January 2016

Hearing date:

13 January 2016

Introduction and procedural matters

1. This is a third-party appeal against the grant, under delegated powers, of planning permission RP/2015/0937 on 3 August 2015 for the development described above. The permission granted approval to revisions to an earlier permission, P/2014/1900 dated 22 December 2014, which was itself a modification of the original permission P/2013/1806 dated 3 April 2014.

2. Permission P/2013/1806 authorised the demolition of the existing dwelling on the site, La Haute Pierre, and the construction on the site of two dwellings and one apartment, with associated parking and hard and soft landscaping. Permission P/2014/1900 authorised an increase in the number of residential units to be constructed from three to four.
3. It was confirmed at the hearing that the appeal was made against permission RP/2015/0937 only, since it was too late for an appeal to be made against either of the earlier permissions.
4. The revised development put forward in RP/2015/0937 falls to be assessed on its own planning merits, rather than by comparison with the development approved by the earlier permissions (but see paragraph 5 below). In general, planning permission has to be granted if the revised development is in accordance with the Revised 2011 Island Plan.
5. The Department of the Environment stated at the hearing that, if the appeal were allowed and the permission RP/2015/0937 were reversed, the earlier permissions would still be 'live' and could be implemented, subject to compliance with the pre-commencement conditions that were imposed on the permissions. The applicant has indicated that in this event permission P/2014/1900 would be implemented and I consider that this would be likely to occur. This constitutes a 'fall-back' position that is a material consideration to which weight should be attached in this appeal.
6. The appellant's personal circumstances are also a material consideration in the appeal to which weight can be attached.

The site and the surrounding area

7. La Haute Pierre is a house that adjoins the southern boundary of the appellant's house and garden, St Gothard. A house known as Green Slipper adjoins the northern boundary of St Gothard. La Haute Pierre's southern side faces the road, with the Green Island public car park being on the opposite side of the road at this point.
8. The site is within the Built-up Area for planning purposes. The surrounding area is mainly residential in character, with the addition of the public car park, a restaurant and the coastal area.

The case for the appellant

9. The main issues raised by the appellant concern (1) the scale of the revised development and the effect of the revised development on the appearance of its surroundings and on her residential amenities, (2) the acceptability of the arrangements for internal circulation within the site and (3) her personal circumstances.

Representations made by other interested persons

10. Other interested persons raised concerns at the application stage about the effect of the revised development on the appearance of the area and on their residential amenities, with additional concerns being raised about road traffic and car parking. The owner/occupiers of Green Slipper attended the hearing, where they repeated these concerns.

The case for the applicant

11. The company state that the site was bought after the earlier planning permissions had been granted to another applicant and that the application RP/2015/0937 that the company submitted was for minor improvements to the development approved earlier.
12. The company summarise these improvements as being: a significant reduction in the number of windows on the north side and the use of obscure glazing in the remaining north-facing windows; the addition of a sunroom with obscure glazing on its north side, in a part of the development that was previously proposed to be a screened amenity area; an additional bedroom; the removal of a first-floor terrace; and an enlarged second-floor balcony with obscure-glazed panels on its north side.
13. The company state that neighbours have been consulted in the past and that the development will not be carried out until further consultation has taken place with neighbours.

The case for the Department of the Environment

14. The Department state that the earlier planning permissions have already established the principle of the development and that the effects on the appearance of its surroundings and on residential amenities were taken into account when those permissions were granted.
15. The Department state that the revised development was assessed in detail before being approved and that planning conditions have been imposed to protect residential amenities. With these conditions, the Department consider that the revised development will not, on balance, have an unreasonable impact on the appearance of its surroundings or on neighbours' amenities and will comply with the relevant planning policies and guidelines.

Inspector's assessments and conclusions

The scale of the revised development, the effect on the appearance of its surroundings and the effect on residential amenities

16. Part of the revised development would have a second floor that would be higher than both the existing house and St Gothard and about the same height as Green Slipper, but lower than the Belle Plage development to the east. However, at this level it would be no higher overall, and would be only slightly more bulky, than the 'fall-back' position, since the sunroom would replace a screened area of terrace and the increases in the size of Unit 2 and the screened balcony would be small.
17. At the hearing it was recognised that the details shown on the plans approved by permission RP/2015/0937, reinforced by the conditions imposed on the permission, will protect neighbours' privacy by the use of obscure glazing in north-facing windows and restrictions on opening windows. However, particular concerns were expressed by the appellant and the owner/occupiers of Green Slipper about the extent to which the enlarged second-floor balcony will project forward of the front building line of St Gothard. They maintain that this will be harmful to their amenities since, if the balcony is not effectively screened there will be a view from the balcony into St Gothard's front

windows and Green Slipper's south-facing windows, but, if the view *is* effectively screened, the screens will have an overbearing impact on the outlook from these windows.

18. There is some force in these concerns. The Department have dealt with them by imposing Condition 7 of the permission, which will be effective in protecting privacy by requiring the balcony to have obscure-glazed screens 1750mm high along the whole of its northern perimeter, rather than along the first part of its length, as proposed in the application. The downside is the additional impact of the extended screening, but account should be taken of the oblique angle between the balcony and the front windows of St Gothard and of the distance between the balcony and the south-facing windows of Green Slipper. These factors will significantly reduce the impact of the screens on the outlook from these properties.
19. I have given careful consideration to all these matters. The conclusion I have reached, on balance, is that the scale of the revised development and the effect that it will have on the appearance of its surroundings and on residential amenities are within the policy criteria set out in the Revised 2011 Island Plan and should be accepted, bearing in mind the conditions that have been imposed and the 'fall-back' position. Some small changes in the wording of the conditions are required to ensure that they are fully effective in protecting the appellant's privacy and I have dealt with these in paragraphs 26 and 27 below.

The acceptability of the arrangements for internal circulation within the site and the concerns about road traffic and car parking

20. The revised development includes the same arrangements for internal circulation and on-site car parking as would occur if the 'fall-back' position were implemented. I do not consider that the additional bedroom and the other changes would add significantly to the amount of traffic or the demand for car parking facilities that could be generated by the development.
21. The local road network has sufficient capacity to absorb the traffic generated by the revised development without having an unacceptable effect on highway safety or the free flow of traffic. The arrangements for internal circulation and on-site car parking comply with the relevant planning policies and guidelines, when account is taken of the accessibility of bus services and the availability of the public car park for the parking of cars used by visitors to the revised development.
22. I have therefore concluded on this issue that the arrangements for internal circulation are acceptable and that the revised development would not have an unacceptable effect on road traffic or car parking conditions.

The appellant's personal circumstances

23. The appellant lives on her own in St Gothard with support from her family and friends. I was informed at the hearing that she has reluctantly had to accept that La Haute Pierre will be redeveloped and that this will have a significant impact on the standard of amenity she has previously enjoyed. Her family are concerned about the additional effect on her welfare of the further changes proposed in the revised development.

24. I have taken these concerns into account in the conclusions I have reached above. I asked at the hearing about additional steps that might be taken to protect her amenities during the construction period and I was told that the company would be considerate and would continue to consult her family. I have recommended in paragraph 28 below that an additional condition should be imposed in relation to construction management, in order to protect the appellant's amenities and those of her neighbours during the construction period. This condition is similar to ones that have been imposed in other instances.

Inspector's recommendations

25. I recommend that in exercise of the powers contained in Article 116(2)(c) and (d) of the Planning and Building (Jersey) Law 2002 (as amended): -

(i) the conditions imposed on planning permission RP/2015/0937 should be varied as set out in paragraphs 26, 27 and 28 below; and

(ii) subject to these variations, the appeal should be dismissed.

Inspector's recommended variations to the conditions imposed on planning permission RP/2015/0937

26. In line two of Condition 4, add "fixed-glazed" between "with" and "obscure".

27. In line five of Condition 7, add "prior to the first use of Unit 2" between "terrace" and "and".

28. Add an additional condition as follows: -

"12. No development shall take place, including any works of demolition, until a Construction Environmental Management Plan has been submitted to and approved in writing by the Department of the Environment. The approved Plan shall be adhered to throughout the construction period of the development and any departures from it shall be approved in writing by the Department before they are put into practice. The Plan shall secure an implementation programme of mitigation measures to minimise the adverse effects of the construction of the development on the environment (including the effects of demolition work), and shall include but not be limited to:

- A. A demonstration of compliance with best practice in controlling, monitoring, recording and reporting on any emissions to the environment (such as noise, vibration or air, land or water pollution);
- B. Details of a publicised complaints procedure, including details of office opening hours and of out-of-hours contact numbers; and
- C. Specified hours of operations on the site."

Dated 1 February 2016

D.A.Hainsworth

Inspector