

PLANNING AND BUILDING (JERSEY) LAW 2002 (AS AMENDED)

Appeal under Article 108 (2) (a) against a decision to grant planning permission

Report to the Minister for the Environment

by Sue Bell MSc., BSc, FCIEEM, CEcol, CEnv, CWEM
an Inspector appointed under Article 107

Appellant: Mr J. P. V. Hunt & Mrs J. A. Voisin

Planning Permission Reference Number: P/2015/1698

Decision notice date: 11/01/2016

Location: Westpoint, La Route de la Villaise, St Ouen, JE3 2AP

Description of Development: Construct extension to create first floor

Appeal Procedure and Date: Hearing, 7th June 2016

Site Visit Procedure and Date: Accompanied, 6th June 2016.

Date of Report: 29th June, 2016

Introduction

1. This is a third party appeal by Mr J. P. V. Hunt & Mrs J. A. Voisin against a grant of planning permission for the construction of a first floor extension to Westpoint, La Route de la Villaise, St Ouen (P/2015/1698).
2. The planning permission allows for the removal of the existing roof and construction of a first floor. This will raise the ridge line of the roof by approximately 2.6 m. There will be no increase in the footprint of the property.
3. A summary of the cases presented by the appellant, applicant and Department of the Environment are presented below, together with my conclusions. Further details are available in the statements and other documents submitted by each party, which are available through the Planning Applications Register website.

The appeal site and surroundings

4. Westpoint is a bungalow, located to the north of La Route de la Villaise in the parish of St. Ouen. It forms part of a small group of dwellings of varying styles, designs and heights. The site lies within the Green Zone for planning purposes.
5. The appellant's property is located to the north-east of the application site. It has substantial garden areas to the west of the property, which share a common boundary with the application site. Currently this boundary and views of the

application site are screened by a hedge approximately 2 m in height, which has been planted by the appellants approximately 1.5 m from the edge of their property boundary.

The Case for the appellants

6. The appellants state that the whole length of their garden, including the main areas used by them for recreation and enjoyment, will be overlooked by the proposed development. They believe this will have an adverse effect upon their amenity through a loss of privacy. In addition, they state that the extension will have an impact on their view of St Ouen's Bay from the upper rooms of their property. The appellants believe that Westpoint was constructed as a bungalow to take account of these points. The appellants also state that they are not opposed to a ground floor extension at Westpoint.

Representations made by other interested persons

7. Concerns about overlooking of neighbouring properties and impacts upon privacy were raised in another representation received during the application stage. This representation also raised concerns about the impact of the proposed height and massing of the proposal on the local area and questioned whether this complies with the requirements of Policy GD 7 - Design Quality.

Case for the Applicant

8. The applicant believes that any overlooking of the appellant's property is limited owing to the distance between the windows in the proposed extension, the use of the rooms, and the presence of trees. The applicant shares a boundary with the appellant, but he believes that the land used by the appellant to the north of this boundary is rated as "Non Domestic", which usually refers to Agricultural land with restrictions. Furthermore, the applicant does not believe that the view of St Ouen's Bay is unique to the appellant's property, owing to the presence of other two-storey houses to the southwest of Westpoint. Nor do they believe that there is any evidence that Westpoint was built specifically as a bungalow.

Case for Department of the Environment

9. The Department states that the relevant policy considerations are: GD 1 - General Development Considerations, GD 7 - Design Quality and NE 7 - Green Zone.
10. The Department considers the design of the extension to be acceptable and in keeping with the existing building. The extension does not alter the existing footprint of the building and in the Department's opinion the proposed height is not excessive in the surrounding context given there are other two-storey buildings in the area. The Department does not consider that the scheme constitutes overdevelopment or would be a detriment to landscape character.
11. The Department considers that the key issue raised in the grounds of the appeal is the impact upon the adjacent properties. It maintains that the test is provided by GD 1 - General Development Considerations, which states that a development should not unreasonably harm the amenities of another property.
12. Whilst the Department believes that the raised roof and new windows in the north elevation of the proposed extension are likely to be visible from the appellant's

garden areas, they do not consider that the amenity of the appellant's property will be unreasonably harmed. This view is based on the distances involved between the proposed extension and the amenity area, and the proposed use of the rooms in the extension.

13. The Department also considered effects on the property to the east of the application site. The proposed extension includes windows on the east elevation, which will be approximately 24 m from the neighbouring property and garden. The Department does not consider that these will have a detrimental impact on private amenity space owing to the distances involved and the fact that the roof lights that face the application site are fitted with obscured glass.
14. The Department notes that loss of a view is not a material consideration for determining the application.

Inspector's assessment and conclusions

15. In undertaking my assessment I have considered the requirements of the following policies of the Revised 2011 Island Plan: GD 1 - General Development Considerations; GD 7 - Design Quality; and NE 7 - Green Zone.
16. The proposed extension sits within the existing footprint of Westpoint and therefore represents a fairly modest level of expansion. The design of the extension has a style consistent with the existing building and the increased ridgeline height is also consistent with other two-storey buildings in the area. I believe the extension is appropriate relative to the existing buildings, which represent a mixture of styles. I believe that the scale, form, and massing are acceptable, and that the extension will not unreasonably affect the character and amenity of the area, nor do I believe it will be intrusive within the landscape. I therefore assess the proposal as meeting the requirements of Policy GD 7, Policy GD 1 (part 2) and Policy NE 7.
17. The proposed extension will be visible from neighbouring properties and the windows located on the northern and eastern elevations provide some opportunity for overlooking of these properties. Policy GD 1 part 3 (a) requires that proposed developments should "not unreasonably affect the level of privacy to buildings and land that owners and occupiers might expect to enjoy". Consequently, judgement is required as to what is "unreasonable". I have carefully considered what this might mean in the context of the neighbouring properties.
18. The appellant's property, which lies to the north-east of the application site, enjoys the use of a considerable area of amenity space. This includes paved areas with garden furniture directly adjacent to the house; an area of mown grass with scattered trees; and a more informal area with a pond. A hedge, planted on the appellant's property, but set back from their boundary, acts as a visual barrier between these garden areas and the application site.
19. The direct views from the windows in the northern elevation of the proposed extension will be due north over the area of mown grass and trees of the appellant's property. The extent of this view will be partially obscured by mature trees, including species of evergreen. The paved areas by the appellant's house are at some distance from the windows and lie at an oblique angle to the orientation of these windows.

20. I understand that the areas of mown grass with trees and the informal area with the pond lie within Field No 1027. I believe that whilst the appellant enjoys the use of these areas, they are rated as Non-Domestic and would most likely not be considered as part of the curtilage of the property.
21. In conclusion, I do not believe that the level of overlooking of the appellant's property that is likely to result from the proposed extension will have an unreasonable effect on the level of privacy to buildings and land of the appellant's property.
22. The neighbouring property to the east of the application site will be overlooked by the windows in the eastern elevation of the proposed extension. These are located in a stairwell, landing and a bedroom. These do not represent the main amenity use of the house. The neighbouring property has windows of obscured glass on the western wall facing the proposed extension, preventing direct views into the property. I believe that it may also be possible to see into part of the garden of the neighbouring property.
23. In conclusion, I do not believe that the level of overlooking of the neighbouring property to the east will have an unreasonable effect on the level of privacy to building and lands.
24. The appellant also raised concerns about the impact of the development on their view of St Ouen's Bay from the upper rooms of the property. The effect of a proposal on personal views is not a material consideration for determining the application. However, I would note that in my opinion the proposed extension will not obstruct the view in its entirety.

Recommendation

25. For the reasons outlined above, I recommend that the appeal be dismissed.

Sue Bell

Inspector 29/06/2016