

**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: Ms Tracy Fritot**

**AGAINST: The Department's decision dated 11 July 2019 to refuse to grant planning permission for a proposal described as "*REVISED PLANS to P/2018/1237 (Construct single storey extensions to North-East and South-East elevations. Construct first floor extension to East elevation. Replace 1 No. window with door to North-West elevation): Enlarge 2 No. rooflights to South-East and North-West elevations. Omit gable window to North-East elevation.*"**

**SITE: La Mouette, La Rue de la Lande, Trinity, JE3 5AF.**

**REFERENCE: RP/2019/0349**

**APPEAL PROCEDURE: Written Representations**

**SITE VISITS: 9 October 2019**

**DATE: 15 November 2019**

## **Introduction**

1. This report contains my assessment of the appeal made by Ms Tracy Fritot against the decision of the Department of the Environment to refuse Planning Permission for an application for a scheme of extensions and alterations to a dwelling known as *La Mouette*, in Trinity.

## **Procedural matter**

2. The appeal form indicates that the appeal is made against the 'Refusal of Building Permission (Bye Laws)' (Box D is ticked). However, it is clear from the documentation that the appeal is made against the 'Refusal to Grant or Refusal to Vary Planning Permission' (Box A). I have made my assessment on this basis.

## **Main issue**

3. The main issue in this case is:
  - Whether the proposal would be harmful to the living conditions of occupiers of the neighbouring property, *Highlands*, by virtue of loss of privacy.

## **Reasons**

4. The appeal property is a detached dwelling situated on the north-west side of La Rue de la Lande and within a triangular cluster of other properties. It is a bungalow with accommodation in the roofspace and there is a double garage block on its north-east side.
5. The refusal relates to a 'revised plans' application. An earlier scheme was the subject of an application made under reference P/2018/1237. This scheme included an extension on the north-east side of the dwelling comprising a ground floor guest bedroom, garage and porch, with a master bedroom contained in the roofspace above. The master bedroom had two skylights, one in the front and one in the rear roof planes, along with a high level triangular shaped window in the (north-east) gable end. Permission was granted for this proposal on 30 October 2018. As the permission remains extant, and can be implemented, it is a genuine 'fall back' for the Appellant and is a weighty material consideration.
6. The appeal proposal is substantively the same scheme in terms of its scale, mass and form. However, it differs in terms of the fenestration serving the master bedroom, as it proposes to revise the previously approved skylights and replace them with two 'cabrio' windows. It also proposes to omit the high level window on the gable end.
7. The appeal submissions indicate that the approved skylights would measure 900 mm by 800 mm. The cabrio windows would be noticeably larger, measuring 2,000 mm by 1,150 mm. They would also be of a different design, incorporating a mini balcony and enabling occupants of the room to have clear outward views. The Appellant's case explains that the revision

was to enable conventional views out of the master bedroom, rather than just high level views of the sky.

8. The proposed cabrio window on the front roof plane would face towards La Rue de la Lande. Occupants within the master bedroom would have views along the drive and some oblique sideways views across front gardens of neighbouring properties to the north-east and south. This is not an unusual or intrusive relationship in this context and will not create any unreasonable loss of privacy.
9. The proposed cabrio window in the rear roof plane would face towards a property known as *Highlands*, which is situated on La Rue des Platons. This is a two storey dwelling with habitable room windows in its rear elevation, along with a conservatory. Compared to other properties nearby, the separation distance between the rear wall of the appeal property and *Highlands* is quite limited and both properties have shallow depth rear gardens. At present, the rear garden boundary between the properties comprises a solid wall of about 1.7 – 1.8 metres high. There is a row of conifers within the grounds of *Highlands*, such that when viewed from the garden of the appeal property, the combination of wall and conifer presents a screen of over 3 metres in height (when I visited).
10. The existing screen will limit the scope for overlooking from the rear cabrio window to the rear garden of *Highlands*. However, it would not prevent direct views to the first floor windows of *Highlands* and the Appellant says this distance is 18.8 metres.
11. Jersey does not have any set space standards concerning distances between windows, buildings and garden sizes. As a result, applying the relevant Island Plan 2011 (Revised 2014) Policy GD1 principles of 'unreasonableness' inevitably involves a Planning judgment. In my assessment, given the relatively large size and design of the rear cabrio window, its position, the limited depth of the appeal property's garden and the restricted space between the two properties, I consider that the proposal would result in an uncomfortable relationship for occupants of both properties. There would be scope for undue overlooking effects and loss of privacy. This would harm the living conditions for occupiers of *Highlands* and it would be unreasonable in terms of Policy GD1(3)(a).
12. There is also no certainty that the existing boundary screen will be retained in the longer term. Whilst a Planning condition could require the maintenance of the existing wall (or similar boundary treatment), the conifers are not in the Appellant's control. Were these trees to be removed, it would result in the occupants within the proposed master bedroom having greater scope for intrusive viewing towards *Highland's* including its private amenity space, which would be unreasonable. Moreover, screening by vegetation, whether existing or proposed, should not be the basis for permitting development which is otherwise unacceptable.
13. In making my assessment, I have taken into account a letter from the occupants of *Highlands* stating that they have no objection to the rear window in the roof. However, my Planning judgment must consider the

implications of the proposal arising from its design and its spatial relationship with its neighbouring properties, for all future occupants in the longer term. As a result, I regard the lack of objection from the existing neighbours as a matter of neutral weight.

### **Conclusions and Recommendation**

14. Whilst I assess that the front cabrio window would be acceptable in Planning terms, the rear cabrio window would be unacceptable. It would result in unreasonable levels of overlooking and loss of privacy to the occupiers of *Highlands*. These harmful effects mean that the proposal conflicts with Policy GD1(3)(a) of the Island Plan 2011 (Revised 2014) which requires that new developments do not unreasonably affect amenities of neighbouring uses, including matters concerning levels of privacy.
15. For these reasons, I recommend that the Minister DISMISSES this appeal.

*P. Staddon*

**Mr Philip Staddon BSc, Dip, MBA, MRTPI**