

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, CWEM,
An Inspector appointed under Article 107

Appellant: Mrs Jennifer Lawson

Planning Permission Reference Number: P/2019/0165

Decision notice date: 12 June 2019

Location: Ville a l'Eveque Cottage, La Rue de la Monnaie, Trinity, JE3 5DG

Description of Development: Demolish existing dwelling. Construct 2 No. four bed and 1 No. five bed dwellings with associated garages and landscaping. 3D Model available.

Appeal Procedure and Date: Hearing 5 September 2019

Site Visit procedure and Date: Accompanied, 3 September 2019 & Unaccompanied 6 September 2019

Date of Report: 28 October 2019

Introduction and Procedural Note

1. This is a third-party appeal by Mrs Jennifer Lawson against a decision to grant planning permission for the demolition of Ville l'Eveque Cottage and the construction of 2 No. four bed and 1 No. five bed dwellings with associated garages and landscaping.
2. Permission was granted by the Planning Committee on 12th June 2019 following a recommendation for approval from the Growth, Housing and Environment Department ('the Department'). The decision was referred to the Committee owing to the number of objections (11 letters from 10 addresses), in addition to a letter from the Parish of Trinity.
3. A summary of the cases presented by the appellant, the applicant, and the Department during the application and the appeal are presented below. Further details are available in the statements and other documents submitted by each party, which are available through the Planning Applications Register website.
4. Prior to the Hearing, I notified parties that, based on the grounds of appeal I anticipated the Hearing would include technical discussions related to Listed buildings and built heritage assets. I therefore extended an invitation to the Department to bring with them to the meeting any technical specialists that they might require to provide that detailed advice. For avoidance of doubt, this was not a formal request as allowed for under Paragraph 115 (4) (b) of the Planning and Building (Jersey) Law 2002.

5. The Department brought two technical specialists to the Hearing: Mr Roger Hills Head of Historic Buildings for Jersey Heritage and Ms Tracey Ingle Principal Planner Historic Environment from the Strategic Policy, Performance and Population Department.
6. At the Hearing, the Principal Planner for the Historic Environment provided a short statement of their opinion of the effects of the proposals on a number of Listed buildings. As this advice differed significantly from the position that had been set out in the Department's report and as summarised in the Minutes of the Planning Committee meeting (12th June, 2019), I asked for this information to be provided as a written closing statement. Both the appellant and the applicant were provided with an opportunity to comment on this statement, dated 9th September 2019. Their responses are dated 13th and 23rd September respectively.

The appeal site and surroundings

7. The appeal site is located on the southern side of La Rue de la Monnaie, relatively close to its junction with La Rue de la Fontaine, within the parish of Trinity. The site lies on the edge of a residential area. It is bordered to the south-west by a field used for horse grazing and to the east, north-east and north-west by other dwellings. The Springside Industrial Estate lies to the rear (south) of the appeal site.
8. Part of the site is occupied by a single-storey detached stone dwelling known as Ville a L'Eveque Cottage. The cottage directly abuts the road on its northern face and the door within the front elevation opens directly onto the road. It has been extended to the rear by the addition of a flat roofed box dormer, which extends along the length of the roof on the garden elevation. There is a garden shed and a sunroom to the rear.
9. Vehicle access to the site is taken directly from the road to the west of the cottage. There is also a garage attached to the eastern side of the property.
10. Ground levels slope both from west to east and north to south. The existing cottage is situated on ground that is roughly level with the road to the north, although it sits slightly higher than the road at its eastern end. The dwellings to the north of La Rue de la Monnaie which face the cottage sit at a slightly higher level than the cottage. Ground levels fall away fairly gently to the rear of the cottage towards a small stream, which runs east to west and which is approximately 2.5 metres below the road. The ground slopes upwards more steeply on the south side of the stream towards the Springside Industrial Estate.

The proposed development

11. The proposals would require the demolition of the existing cottage and the construction of 3 new two-storey dwellings, situated around a central courtyard to create a layout reminiscent of a traditional farmstead. The vehicle access to La Rue de la Monnaie would be relocated to the centre of the site. Houses No. 1 and No. 3 would comprise 4-bedroom properties, and would be located to the west and east respectively of the central access. House No. 2 would be a 5-bedroom dwelling situated to the south of the central courtyard area, facing the road. Each dwelling would have an integral garage, off-street parking and external amenity space.
12. In addition to the demolition of the existing cottage and ancillary buildings, the proposals would require some levelling and re-grading of ground levels across the

site. Levels would be lowered to the north of the site adjacent to the road and increased to the rear of the site.

Case for the appellant

13. The appellant has raised 8 grounds of appeal. In reaching its decision to approve the development, the appellant considers that the Committee:
 - placed undue reliance on the written advice of Jersey Heritage that the existing cottage is not worthy of protection. The appellant has undertaken research to show that the cottage is older than stated by Jersey Heritage. It is the sole surviving example of a single storey vernacular cottage built in the early 1700s and hence is of historical significance in relation to the development of the village settlement;
 - failed to consider that the site was within a particularly sensitive Built Area within a rural settlement;
 - failed to appreciate the extent of the landfill required to provide a platform for the proposed development, thereby altering the natural valley contours;
 - failed to appreciate the extent to which the proposed new buildings would be elevated by landfill above the natural landscape;
 - gave insufficient attention to the scenic, natural and historical character of the rural surroundings, thereby reaching a flawed conclusion that the development would cause no harm to these interests;
 - failed to consider the impact of the demolition of the existing cottage upon the environment, and whether the cottage was capable of being refurbished. The building is structurally sound, is not damp and could be refurbished.;
 - in making the assessment, gave insufficient weight to the character of surrounding development, which is predominantly single-storey, resulting in a proposal which is out of character and amounts to an overdevelopment of the site;
 - failed to give proper attention to its duty to consider the effect of the development on the setting of neighbouring Listed buildings.
14. The appellant considers that as a result of the above, the Committee approved a development that is contrary to the aims of Policies SP1, SP4, GD1, GD7, NE1, NE4 and HE1 of the Island Plan.

Case for the Department & Planning Committee

15. The Department set out its analysis in a Report for the Planning Committee (undated), which was considered by the Committee at its meeting on 12 June 2019.
16. The proposal for housing development is within the Built-up Area. The intention of the Built-up Area boundary is to contain future development within existing limits. The proposed scheme is consistent with this approach and also meets the minimum standard of accommodation as set out in Supplementary Planning Guidance Note 6 - Specifications for Housing Development and required by Policy H6 of the Island Plan.
17. Whilst a strip of land to the south of the site is designated as 'Protected Industrial Site', the land in question is considered to be part of the residential land use associated with Ville a l'Eveque Cottage. Therefore, the proposals would not require a change in land use or a loss of industrial land and hence the proposals would not contradict Policy EIW2.

18. Policy GD1 provides the criteria against which all planning applications will be considered. It has six main themes, which include the need to contribute to a more sustainable form and pattern of development; the impact on the environment; the impact on neighbouring land users; and design quality. The scheme is considered to demonstrate compliance with these main themes.
19. The broader context of Policy GD1 relates to a more sustainable form and pattern of development. Whilst the existing cottage may be capable of repair, its loss is considered to be outweighed by the wider planning benefits arising from the redevelopment of the site for more units. The proposals would also make more efficient use of land within a sustainable site in the Built-up Area and accords with the relevant provisions of Policies SP1 (Spatial Strategy) and SP2 (Efficient use of Resources).
20. A site waste management report has been submitted and is considered to comply with the requirements of Policy WM1 Waste Minimisation and New Development.
21. An Initial Ecological Assessment Report was submitted with the application, which recommends further work to be undertaken. In the event the presence of protected species is established a species protection plan would be provided. The Department considers this to be sufficient to avoid/minimise and compensate for any negative impacts which may be caused by the development to animal or plant species protected by law, or their habitats. This matter is to be secured by condition. Consequently, the proposals are considered to comply with the requirements of Policies NE1 Conservation and enhancement of biological diversity, NE2 Species Protection, and NE4 Trees, Woodland and Boundary Features of the Island Plan.
22. The proposals are considered to deliver sustainable drainage solutions in accordance with the relevant Island Plan policies. The application site is served by a connection to the public main sewer, which has capacity for the proposal. The proposed disposal of surface water is supported by the Drainage Authority.
23. Ville a l'Eveque Cottage is not a Listed building and a recent review undertaken by Jersey Heritage has confirmed that it does not meet the criteria for listing. The cottage has limited historical value, which is not considered to outweigh the wider planning benefits arising from its demolition and redevelopment of the site.
24. The proposals for three houses would make more efficient use of the site, delivering the highest reasonable density commensurate with good design, adequate amenity space and parking and so meet the requirements of Policy GD3.
25. The proposed design of a traditional farmstead and use of a simple palette of materials is considered to respond appropriately to the characteristics of the area. The scale of the units is considered to be proportionate to the pattern of development in the area. The scale, form and detail of the proposal is such that it is considered to preserve intact the setting of Listed buildings in the vicinity. The proposals are considered to satisfy the requirements of Policies GD1, GD3 and GD7.
26. The effects on neighbouring land users have been considered and any perceived sense of harm arising from the proposed development is not considered to be so significant to cause 'unreasonable harm', which is the test under Policy GD1.
27. Sufficient car parking spaces would be provided to meet the current standards set out under Supplementary Planning Guidance - Policy 3: Parking Guidelines. The loss

of the existing substandard access in favour of a new central access is seen as a benefit.

28. The Department's report concluded that the principle of development was consistent with the Island Plan Spatial Strategy and is permissible under Policy H6. The proposed scheme would deliver a high quality design and highest reasonable density of development which responds appropriately to its Built-up Area and wider rural context and its relationship to neighbouring land uses.

Case for the Applicant

29. The applicant considers that the proposals comply with the requirements of the Island Plan. The proposals are for a site within the Built-up Area, which significantly exceeds the minimum standards set out in Policy H6 and hence accords with the requirements of both Policies H6 and SP1.
30. Although the proposals would require the demolition of the cottage, they are considered to be consistent with Policy GD1 (1) and Policy SP2 as the development would make a better, more efficient use of the site, leading to an increase in housing within the Built-up Area. The applicant maintains that there is no such thing as a 'particularly sensitive' Built-up Area.
31. The appellant's submissions on the potential for refurbishment of the cottage is opinion from individuals with no apparent relevant specialist qualifications. The cottage does not comply with current Building Control regulations and is not capable of sensible refurbishment. It has little or no thermal insulation. The box dormer is poorly constructed; the floors flex when weight is applied and imitation plastic beams have been installed. Virtually all original features have been removed from the cottage and the internal finishes are poor. There are also areas of mould, which it is assumed have been caused by condensation. The works required to upgrade it would involve the loss of floor space and headroom making it unviable.
32. In addition, the existing sightlines for access and egress from the site do not meet modern standards. In order to achieve this, it would be necessary to remove a substantial part of the cottage wall. If the cottage remains, these sightlines cannot be improved, preventing further development on the site. If the cottage's demolition is prohibited, it would deprive the site of its development potential, contrary to Policy H6.
33. The proposals are considered to be appropriate to their surroundings. The development comprises three individually-designed two-storey houses, which are of a traditional rural character and have been designed to form a harmonious grouping, akin to a traditional farmstead. The applicant disagrees that the surrounding development is predominantly single-storey. There is a mixture of single and two storey dwellings, with those closest to the site comprising one two-storey dwelling and three bungalows.
34. In relation to the proposed groundworks, the applicant considers that the Planning Committee had before it plans that showed the nature and extent of the groundworks. Whilst these would result in some impact on the natural contours of the valley, this is considered to be limited and appropriate in the context of the policy objectives of achieving the maximum reasonable density of development within the Built-up Area.

35. The proposed dwellings are located at an appropriate distance from the site boundaries to minimise the impact on neighbouring properties. In addition, the proposals significantly improve access to the site.
36. The cottage is not included on the Register of Historic Buildings. It has recently been assessed by Jersey Heritage, who are the highest authority on the heritage value of the Island's buildings and places. In their assessment, whilst the cottage is of 'some historical interest' it does not meet the criteria for a Listed building.
37. In relation to the age of the cottage, the applicant notes that there may have been a building on the site earlier than the date suggested by Jersey Heritage (1795) and if there was it may have been the current cottage, but there is no evidence that it was. The best evidence on age is that provided by Jersey Heritage. The applicant considers that much of the appellant's submissions are concerned with whether or not the cottage should not be Listed. The cottage is not Listed and the view of Jersey Heritage is that it should not be Listed.
38. The proposals are not considered to have an impact on the setting of any Listed building in the vicinity of the site.
39. As the cottage is not listed, the applicant's proposals to demolish the cottage is not contrary to the policies and guidance of the Island Plan. The applicant notes that whilst Policy GD (1a) effectively places a presumption against replacement of a building capable of repair or refurbishment, individual planning policies should not be considered in isolation. The loss of a building which might be capable of refurbishment must be weighed against the planning gains that would be achieved by the development. This development would remove an old, inefficient, dangerously situated building and replace it with three dwellings of the highest quality. Thus, in this case the planning gains would outweigh the loss of the cottage.

Consultation Responses

40. In its letter of 25 April 2019, the **Parish of Trinity** objected to the loss of the existing cottage and the overdevelopment of the site. It considers that the proposed dwellings are oversized and offer disproportionate amenity space. The Parish also considers that the location of the cottage provides a natural speed reduction mechanism on approach to a very busy junction and it fears that its removal would further exacerbate traffic and speed problems.
41. The **Department for Infrastructure (Transport)** noted (response dated 26 February 2019) that the applicant had liaised with the Department prior to submitting the application and taken on board any recommendations. It considers the existing access to be substandard and that it and the garage have zero nearside visibility. It considers the proposals would be of significant benefit to all road users. It included a recommended condition for the design and construction of the proposed access road.
42. The response from the **Department for Infrastructure (Operational Services - Drainage)** noted that there was capacity for a foul water connection to the public foul sewer in Rue de la Monnaie, but that measures would be required during demolition and construction to ensure that debris does not enter the public drainage system. The response also notes that any additional surface water run-off from roofed and hard paved surfaces directly or indirectly to the stream must not compromise downstream property under the requirements of common law.

43. The **Natural Environment Section of DoE** commented on the Ecological Assessment Report. In its response of 20 March 2019, it requested further survey to be carried out in accordance with the recommendations made in Section 6 of the Ecological Assessment Report and that the results should be submitted for evaluation, together with appropriate mitigation and/or compensation measures prior to the application being determined. It recommended that no works were undertaken to the buildings or site, including vegetation clearance or the erection of scaffolding, until the survey work had been completed and a report submitted and approved in writing. It also required further details of the mitigation measures included in Section 7 of the report, which should be submitted for approval prior to determination.
44. The **Environmental Health Section of GHE** did not object to the proposal, but in its response (25 February 2019) it noted the proximity of the proposal to the Springside Industrial Estate and suggested that noise mitigation be considered.

Representations

45. Eleven letters of representation were received from ten addresses. These raised various points, which can be summarised in broad terms as:
- Objection to the loss of the cottage, including loss of the characteristic façade of the property and concern that the building is not Listed given its age and hence does not benefit from protection;
 - Concern about the effects of the loss of the building on Listed buildings in the vicinity;
 - The historic features of the building should be recorded before demolition;
 - The cottage could be re-styled, refurbished or repaired;
 - The cottage should be incorporated into the plans;
 - The design and style of the development is out of character with the area;
 - The scale of the proposed development is too large and would have an overbearing impact on surrounding buildings;
 - Effects on traffic arising from the development and the need to address traffic issues generally;
 - The cottage provides an effective traffic calming device;
 - Effects on privacy from House No. 3;
 - Insufficient bus service, no pavements, no provision for pedestrian safety;
 - Effects on surface water drainage and surface water run-off; and impact of groundworks on flow from springs;
 - Adequacy of parking;
 - Gardens would be in a protected industrial zone.

Inspector's assessment and analysis of the issues

46. Based on the written documentation including the grounds of appeal, the representations to the application, my site inspection and discussions at the Hearing, I conclude that the main issues in this appeal are:
- the extent to which the proposals accord with the requirements of the Island Plan, and in particular policies related to the Built-up Area;
 - the relevance of Policy EIW2 protection of existing industrial sites;
 - the principle of demolition of the existing cottage;
 - the extent of groundworks required to construct the development and the effects of this on the natural and historic environment including landscape;
 - the effect of the proposals on the character and visual appearance of the area;

- the effect of the proposals on neighbouring amenity;
- the effect of the proposals on nearby Listed buildings (policy HE2).

The extent to which the proposals accord with the requirements of the Island Plan, and in particular policies related to the Built-up Area

47. The spatial strategy (SP1) of the Adopted Jersey Island Plan, 2011 (Revised 2014) (the 'Island Plan') directs development to the Built-up Area. This comprises a hierarchy of settlements including the town of St Helier and various urban, suburban and isolated rural settlements. The appeal site lies within a Main Rural Settlement within the Built-up Area.
48. Policy H6 sets a presumption for housing to be located within the Built-up Area, subject to it meeting the required standards for housing set out in Supplementary Planning Guidance (SPG). The Department is satisfied that the proposed design exceeds the minimum standards set out in SPG Policy Note 6 - Specifications for Housing Development.
49. All proposals for new residential development within the Built-up Area require to be assessed relative to their impact on the local environment and neighbouring uses and in terms of their quality and design. This assessment will be influenced by the site's surroundings and character. Whilst the spatial strategy does not currently distinguish in policy terms between the different settlements that contribute to the Built-up Area, nor does it identify any settlements as being 'particularly sensitive', it does recognise that the ability to accommodate development decreases down the settlement hierarchy. Thus, it is likely that the siting, location, scale and density of development that is acceptable in a rural settlement may be different to that which would be appropriate in a more urban area. These aspects are addressed through consideration of the General Development Control Policies, and specific policies related to particular topics e.g. Historic Environment. I consider these issues in relation to the appeal site further below.
50. In summary, the appeal site lies within a Built-up Area and satisfies the minimum standards for housing. Thus, subject to the proposals being appropriately integrated into their context and satisfying other general development requirements set out in the Island Plan, the principle of housing development at this location would be acceptable.

The relevance of Policy EIW2 protection of existing industrial sites

51. Policy EIW1 provides protection for industrial uses of existing industrial sites. The Island proposals map shows the southern part of the proposed development site as lying within a Protected Industrial Site (Springside Industrial Estate).
52. Safeguarding the southern part of the appeal site for industrial use appears to be an anomaly or mapping error. This area is clearly separate from the Industrial Estate, and there is no dispute between parties that this land currently forms part of the residential land use associated with Ville a l'Eveque Cottage.
53. The development proposals would not result in a change of land use or any loss of industrial land. Therefore, I do not consider that the proposals would be inconsistent with the requirements of Policy EIW1 of the Island Plan.

The principle of demolition of the existing cottage

54. Notwithstanding the appellant's views on the age and importance of the existing cottage, this is not an appeal against the refusal to include the cottage on the Register of Listed Buildings. Nevertheless, I am satisfied that there has been a recent assessment of the historical value of the building against the relevant listing criteria ('Criteria for the listing and grading of heritage assets' (MD-PE 2011-0063)). This assessment was conducted by Jersey Heritage, who are the Government's principal adviser on the heritage value of buildings and places on the Island. Therefore, I consider that there would need to be significant and compelling reasons to disregard its advice. I am not persuaded that the dispute about the age of the property is a sufficient reason to disregard Jersey Heritage's advice, as its decision and advice about the importance of the cottage was not based solely on the age of the building.
55. The provisions of Policy HE1 - Protecting Listed Buildings and Places - do not apply to the cottage as it is not Listed. However, this does not mean that it has no historic value. Whilst Jersey Heritage and the appellant dispute the precise age of the cottage, there is agreement that it dates from the period 1700 - 1850 and hence is clearly a long-established feature of the settlement. However, age only forms one component of the importance of a building. I accept Jersey Heritage's assessment that the original structure of the building has been substantially modified and unsympathetically altered meaning that little of the fabric of the building survives in its original form.
56. Policy GD1 sets out the General Development Considerations, which all development is required to meet. These encompass a variety of aspects including contributing towards a more sustainable form and pattern of development; avoiding serious harm to the Island's natural and historic environment; avoiding unreasonable harm to the amenities of neighbours; contributing to or avoiding detracting from the maintenance and diversification of the Island's economy; contributing to reducing dependence on the car; and being of a high quality of design.
57. In relation to contributing to a more sustainable form and pattern of development, Policy GD1 states that proposals should accord with the Island Plan Strategic Policy SP1 Spatial Strategy, Policy SP2 Efficient use of resources and Policy SP3 Sequential approach to development. In particular, Part 1 a) of the policy establishes that development proposals will not be permitted if they replace a building that is capable of being repaired or refurbished.
58. Whilst I note the applicant's views on the state of the cottage, neither the appellant nor the applicant have provided objective evidence in the form of reports by independent, suitably qualified professionals about the current condition of the cottage or the practical or financial feasibility of refurbishing it to modern standards. Whilst I did not enter the property during my site inspection, I understand that it is currently occupied and hence must be habitable.
59. I note the applicant's statement that the building does not comply with current Building Control Regulations and would need to be substantially demolished and rebuilt to bring it up to current standards. Many older buildings present challenges in meeting modern Building Standards, but that does not necessarily make them unviable.
60. I agree that it is technically feasible to restore or repair virtually any building, and there is a point where the extent of works required means that it is either

uneconomic to carry them out, or they would result in a substantially 'new' building with little of the original fabric remaining. However, I have not been provided with any objective evidence that this is the case with the existing cottage.

61. Whilst I accept that the current vehicle access is unsatisfactory, this is not a unique scenario and during my site inspection I observed that several of the vehicle access for neighbouring properties also did not appear to comply with current guidelines for sightlines.
62. Given the age of the cottage and the requirements set out by Policy GD1a it is perhaps surprising that a condition report was not either provided with the original application or sought by the Department to fully establish the current condition of the property and the practical and financial feasibility of restoring it.
63. It may be the case that the cottage is not capable of sensible repair or refurbishment, and hence demolition would be justified. However, that has not been demonstrated to my satisfaction. Given the unambiguous requirement set out in Policy GD1a) that development should not replace a building that is capable of being repaired or refurbished, together with the fact that the cottage has some historic value, I conclude that robust and objective evidence is required in order to support a decision that demolition is an acceptable option. No such information is before me. I therefore conclude that the proposal fails to satisfy Policy GD1a) of the Island Plan.

The extent of groundworks required to construct the development and the effects of this on the natural and historic environment including landscape

64. Policy GD7 requires development to have a high quality of design, that respects, conserves and contributes positively to the diversity and distinctiveness of the landscape and built context. It sets out criteria for aspects of design that must be considered, including:
 - (1) the scale, form, massing, orientation, siting and density of the development and inward and outward views;
 - (2) the relationship to existing buildings, settlement form and character, topography, landscape features and the wider landscape setting;
 - (3) the degree to which design details, colours, materials and finishes reflect or complement the style and traditions of local buildings;
 - (4) the use and maintenance of landscape to enhance new development and the degree to which this makes use of local features and an appropriate mix of materials and plant species suited to both the landscape and wildlife interests of the locality; and
 - (5) the incorporation of existing site features into the development such as boundary walls, banks and trees.
65. The proposals would require some re-grading and levelling of the land. Ground levels close to the road at the north of the site would be lowered and the material generated would be used to raise ground levels further to the south near the stream.
66. Whilst ground levels would still decline southwards towards the stream, the angle of the slope would be reduced under the houses. As a consequence, there would be a more pronounced set down in levels between the patio of House No. 2 and the lawn area and between the lawn area and the stream. The lawn for Houses No. 1 and No. 2 would be supported by a sleeper wall in the order of 1 metre high and hence would be raised above current ground levels to create a flat grassed area. There would also be a noticeable step down in ground levels between the north end of the patio attached to the east of House No. 3 and the neighbouring property to the east.

67. Based on the existing topography and the drawings of the proposals, combined with my observations during the site inspection, I conclude that these groundworks would appear as a series of stepped terraces of unequal depth, particularly when viewed from La Rue de la Fontaine. Whilst the terraced effect would be obscured, to a degree, by the stable to the west of the site, and by the proposed soft landscaping, I consider that the resultant landform would appear as an artificial and incongruous man-made feature, in what otherwise is a naturally sloping landscape. In particular, the sleeper wall would create a straight, artificial vertical edge that encroaches on the riparian corridor, which would be out of keeping with the open profile of the existing stream valley.
68. For the reasons set out above, I conclude that the proposed alteration to ground levels would fail to respect the distinctive sloping and open nature of the valley and detract from views along the valley into the site from La Rue de la Fontaine. I find that the proposed straight lines and sharply defined edges to the change in levels, particularly between the lawn and the stream, do not respond appropriately to the topography as they would appear incongruous and out of character within the wider landscape setting. Consequently, the proposals fail to meet the requirements of parts 1 and 2 of Policy GD7 Design Quality of the Island Plan.

The effect of the proposals on the character and visual appearance of the area

69. The appeal site lies on the edge of a main rural settlement. During my site inspection I saw that there is a mixture of building styles, reflecting different phases of development. Large industrial units within Springside Industrial Estate provide a backdrop to the south-east of the site. There are more recent bungalows on the north side of the road facing the site, but there are also two-storey properties in the immediate vicinity. In addition, there are Listed buildings within sight of the proposed development.
70. The layout of the proposed development, comprising three buildings around a central courtyard, would be similar to a traditional farmstead. I consider the two-storey buildings would be consistent with the mixed character of the area. The proposed palette of materials appears muted and would fit in well with the surrounding finishes.
71. The proposals represent an increase in the density of development, replacing the existing residential property with 3. No. two-storey units. Policy GD3 Density of Development of the Island Plan requires that the 'highest reasonable density' is achieved, commensurate with good design, adequate amenity space and parking. The applicant has determined that the density of the proposed development would be 48.84 habitable rooms per hectare. This falls a little below the density of 65 - 75 habitable rooms per hectare for sites in or around the edges of the Built-up Area as set out in Supplementary Planning Guidance 4 *A Minimum specification for new housing developments* (SPG6). Nevertheless, although the site is within a Built-up Area, it is a rural settlement, where density would not be expected to be as high as within the town of St Helier.
72. The appeal site is in a prominent location, on the edge of the Built-up Area and clearly visible from outside the village envelope. It is particularly visible in views when travelling north on La Rue de la Fontaine. The sloping valley and undulating landform act to draw the eye down the valley and towards the development site.

73. The effect of the proposed groundworks and re-levelling would be to move the profile and bulk of development southwards into the river valley. I consider this would be a significant visual intrusion into the valley bottom. The groundworks would also result in the creation of artificial terraces with straight edges, which would appear incongruous within the river valley.
74. The ridge height of House No. 2 would be greater than that of the existing box dormer resulting in it being a conspicuous feature when viewed from La Rue de la Fontaine. The location of the house, on the re-graded ground, would add to the prominence and visibility of the development.
75. Whilst I accept that the proposals must be viewed against the backdrop of the Springside Industrial Estate, those buildings are located towards the top of the slope and do not encroach on the riparian corridor.
76. Overall, I consider the farmyard-style layout and choice of materials to be attractive, and the height and building styles and proposed materials would not be out of character with surrounding development. The proposed layout allows for an increase in density of development over the current situation. I therefore consider that it is consistent with the requirements of Policy GD3. However, I do not consider that the siting of the development, and in particular the groundworks, take adequate account of their relationship to the existing topography, landscape features and wider landscape setting and hence fail to satisfy the requirements of Policy GD7.

The effect of the proposals on neighbouring amenity

77. The test set by Policy GD1 is that development must not cause unreasonable harm to the level of amenity, including privacy, that the owner or occupier of a property might expect to enjoy. This test recognises that some change may occur to these amenities as a result of development.
78. I have considered the potential for over-looking of bungalows to the north of Rue de la Monnaie from House No. 3. Because of the difference in ground levels and presence of boundary features along the north side of the road, I consider that any potential for over-looking would arise from the first-floor windows.
79. I note that the window in the northern elevation closest to the road would be fixed and constructed from obscured glass. I am content that this would remove any potential for over-looking. There is a second north-facing window at first floor level of House No. 3, however, having considered the distance between windows, their relative positions, and angles of view, I conclude that any potential overlooking is limited and would be not considered unusual within a residential area, albeit a rural settlement.
80. I have also considered the effects of House No. 3 on the neighbouring property to the east. There are three windows within House No. 3, which would face the property to the east. There are no windows within the wall of the neighbouring property that faces the proposed development, meaning there is no scope for over-looking into the property from any window in House No. 3.
81. Two of the windows within House No. 3 would serve ground floor rooms. Their position means that they would face the external amenity area in front of the property to the east. However, given that this external amenity area is largely

visible from the public road, and the proposals for some boundary structure, I am satisfied that they would not result in any unreasonable over-looking of this area.

82. The third window would be located above a stairwell and would also face the external amenity area in front of the property. Given that the window does not serve a living room, and overlooks an area which can be viewed from the public road, I consider that the potential for over-looking from this window would not result in unreasonable harm on neighbouring amenity.
83. The proposed development would result in the external areas to the east of House No. 3 lying at a higher ground level than the neighbouring property to the east. This difference in levels would be greatest at the north of the site and decline to existing levels towards the south. The raised areas would be close to, but separated from the side of the garage wall and external amenity area at the front of the adjoining property and hence are not considered to result in unreasonable harm on neighbouring amenity.
84. In summary, for the reasons set out above, I conclude that the proposal would not result in unreasonable harm on neighbouring amenity contrary to the requirements of Policy GD1 (3).

Effect of proposals on Listed buildings

85. The existing cottage is not a Listed building, but there are several Listed buildings within the vicinity of the proposed development, that require to be assessed in terms of the effects of the proposals upon their setting.
86. At the Hearing, the Principal Planner for the Historic Environment provided a statement about the effects of the proposals on the setting of seven Listed buildings¹. They concluded that the proposals would have an effect on the setting of one of these: Le Mare d'Angot Bakehouse. The applicant disagrees, stating that the assessment is flawed in method and approach and that the proposed development would have no direct physical consequences for the Bakehouse and would not harm its significance.
87. Policy HE1 provides for strong protection of Listed buildings and their settings, stating that proposals which do not preserve or enhance the special or particular interest of a Listed building or place and their setting will not be approved. The policy also states that permission will not be granted for "*extensions, alterations and changes which would adversely affect the architectural or historic interest or character of a Listed building or place, and its setting.*"
88. There is no generic definition of setting within the Island Plan. Both the applicant and the Principal Planner Historic Environment appear to agree that 'setting' includes the surroundings in which the heritage asset is experienced. However, they differ in how this might be further defined and applied in relation to the Listed Bakehouse.
89. The Bakehouse is situated approximately 126 metres to the south-west of the proposals site, further up and on the opposite side of the valley. It forms part of a

¹ La Fontaine (TR0031); Ville a l'Eveque (TR0206); La Biarderie (TR0046); La Vielle Chapelle (TR0204); Le Mare d'Angot Bakehouse (TR0078); 1796 Marriage Stone (TR0148); and Abreuvoir (TR0164). The Principal Planner Historic Environment noted that Les Vaux Farm is not Listed, having been removed from the Register in 2002.

group of farmstead buildings that are accessed from a track leading off La Rue de la Fontaine. The farmstead buildings enclose the Bakehouse on three sides. The position of the buildings and a boundary wall is such, that only the pantile roof of the Bakehouse is visible from outside the farmstead, and this is seen against a backdrop of the other farm buildings. I observed it to be most visible in views travelling south-west along La Rue de la Fontaine.

90. The Principal Planner considers that the Bakehouse sits in a landscape that is inter-visible with the proposed development and that Ville a l'Eveque Cottage is part of the wider setting of the Bakehouse. They consider that the Industrial units within the Springside Industrial Estate create a detrimental impact on the setting, but do not consider that this allows the setting to be further impacted by other development on other sites. In their view, the proposed development through its scale and height, located further towards the Listed building, would have a detrimental effect on its setting.
91. The applicant also considers that the Bakehouse's original setting has been compromised by the alteration and conversion of the farm buildings within its immediate proximity and that the Bakehouse is 'dominated' by the Springside Industrial Estate. In their view, given the physical surroundings of the Bakehouse, it would be logical to conclude that the setting would be its immediate location within the farm group courtyard. They argue that the Bakehouse does not sit in the landscape that extends to the development site and that the landscape in the area between the Bakehouse and the development site is not protected as an historic asset. In their view, as the Bakehouse is surrounded by buildings and landscape it is reasonable to deduce that the proposal site does not lie within the 'setting' of the Bakehouse.
92. The Bakehouse forms part of and is substantially surrounded by farmstead buildings. In my assessment, the arrangement of the farmstead including its boundary walls is such as to create a discrete enclave, providing a fairly restricted and confined immediate setting for the Listed building. From outside the perimeter of the farmstead buildings and boundary wall, it is difficult to see, and certainly to appreciate or experience, the presence of the Listed building. Nevertheless, from La Rue de la Fontaine it is possible to view the roof of the Listed building, both within the grouping of farm buildings and this grouping within the wider landscape at the head of the valley. The proposal site and existing Ville a l'Eveque Cottage can also be seen and appreciated within a panorama viewed from the same location.
93. Thus, by reference to the definition of setting, as the surroundings in which an historic asset is experienced, I find that the setting is mainly confined to the area within the farmstead, although I accept that there is also a wider landscape context, which provides a setting for the farmstead as a whole, including the Listed building.
94. The Principal Planner Historic Environment has indicated that the proposals would have "an impact" on the setting of the Bakehouse. However, that is not the test set by Policy HE1, which requires that proposals should "*preserve or enhance the special or particular interest of a Listed Building...and their settings*".
95. The applicant interprets preserve in the context of heritage planning to mean preservation from harm to significance, not that there can be no change. I do not entirely agree with this view: the policy refers to the preservation of the special or particular interest of a Listed building and its setting and not to the preservation of the significance of that building.

96. In this case, the special interest of the Bakehouse is described as “*Architectural Historical*” on the Listing Schedule. This interest seems to be heavily focussed on the building itself, rather than its position within the landscape. As I set out above, I consider that the setting of this particular Listed building is principally the immediate farmstead. The proposals would not result in any change to this immediate setting and hence I conclude that the immediate setting would be preserved.
97. There would, however, be some changes to the wider landscape context through the proposed groundworks required to support the development. Whilst these are at some distance from the Listed building and are shielded from it by the farmstead, they would still influence how the building is viewed and experienced within the wider landscape. As such, I conclude that they would fail to preserve the wider setting of the Listed building, contrary to the requirements of Policy HE1.

Other relevant policies and issues raised during consideration of the application

98. Policy WM1 seeks to minimise waste associated with new development through ensuring that development proposals incorporate measures to recycle, re-use or recover as much as possible of the generated waste materials and that opportunities are taken to maximise on-site management of waste. A ‘Site Waste Management Plan’ will be required for major new developments and/or developments which would involve the demolition of major structures or the potential regeneration of significant quantities of waste material.
99. The application was accompanied by a site waste management report, which the Department considered was acceptable. Hence the proposals are in accordance with the requirements of this policy.
100. Policies NE1, NE2 and NE4 provide protection for biodiversity, protected sites, protected species and trees, woodlands and boundary features that are of landscape, townscape, amenity, biodiversity or historical value. NE2 states that planning permission will only be granted for development that would not cause significant harm to protected animal and plant species or their habitats. Where a proposal may have an adverse effect on protected species or habitats, there should be an assessment demonstrating proposed mitigation measures.
101. An Initial Ecological Assessment Report was supplied with the planning application. The advice from the Natural Environment Section of DOE was that the information in the report was not sufficient alone to enable a reasonable evaluation of all potential impacts on protected species prior to determination of the application. It recommended that further survey work be conducted prior to determination. This requirement was included as a condition to the original approval, rather than being requested prior to determination.
102. Effects on biodiversity or protected species has not been raised as an issue in the appeal. However, issuing consent without considering the results of the survey work required by the Natural Environment Section seems to me an unorthodox approach, as it prevents the consent from including any specific mitigation measures necessary to ensure that these species are safeguarded, in line with the policy.
103. Nevertheless, I understand that the surveys are now complete, and that the Department is content that the proposals would not have unacceptable adverse effects on biodiversity, protected species or trees.

104. Policy LWM2 establishes that development which results in the discharge of sewage effluent will not be permitted unless it provides a system of foul drainage that connects to the mains public foul sewer. Policy LWM3 sets a requirement for treatment of surface water, including an expectation for Sustainable Drainage Systems to be incorporated wherever possible and a hierarchy for dealing with management of surface water-run off as close to source as possible.
105. The proposals provide for connection to the mains public foul sewer and these proposals are considered satisfactory by the Department for Infrastructure (Operational Services - Drainage). The Department did not object to the surface water treatment proposals.
106. I note the representations concerning the volume of traffic and the role of the cottage in moderating traffic speed. However, I do not consider these issues are material to the determination of this appeal. It is not the role of private houses to act to calm or control traffic.

Inspector's Conclusions

107. Article 19 of the Planning & Building (Jersey) Law 2002 provides that, in general planning permission shall be granted if the development proposed is in accordance with the Island Plan. Article 20 provides that planning permission may also be granted where the proposed development is inconsistent with the Island Plan, if there is sufficient reason for doing so.
108. It is often the case that a development proposal would not satisfy each and every relevant policy within the plan. In such cases judgements need to be made about the importance of particular policies and how the proposals meet the requirements of the plan as a whole.
109. The Department concluded that the proposals were in accordance with the Island Plan, and recommended the scheme for approval. The Planning Committee agreed with the Department's recommendation and approved the scheme.
110. The Island Plan supports sustainable development and the strategic policy framework, spatial strategy and Policy H6 clearly direct housing development to the Built-up Area. Whilst there is a presumption in favour of housing in these areas, the strategic policy framework of the Island Plan does not support development at any cost. It includes clear guidance on the types of development that would or would not be acceptable, and sets criteria for evaluating the acceptability of proposals to ensure that assets - both natural and built - are not irrevocably lost and that neighbouring amenity is safeguarded. These criteria are not designed to prevent any change or frustrate development, but are intended to ensure that development does not result in unacceptable or unreasonable harm.
111. Policy GD1 (1) seeks to ensure that development contributes towards a more sustainable form and pattern of development and it sets tests or criteria which need to be met. These include compliance with the aims of Policy SP2, that the development should make the most efficient and effective use of resources, including the re-use of land. However, GD1 also includes a requirement that development proposals will not be permitted where they will replace a building that is capable of being repaired or refurbished.

112. It seems to me, that by being satisfied that the proposed development would result in a more efficient use of land, the Department has only considered that part of the requirements of Policy GD1 which relate to SP2 and has not considered the other criteria listed within GD1 as indicators of a sustainable development. The wording of Policy GD1a is unambiguous in stating that development will not be permitted unless it will not replace a building that is capable of being repaired or refurbished.
113. I conclude, that when considered as a whole, Policy GD1 requires that development proposals should achieve the aims of SP1 - SP4, including maximising the efficiency of the re-use of land, but that this should not be at the expense of the loss of buildings that are capable of being repaired or refurbished. In this case, I find that there is insufficient evidence that the cottage is incapable of repair or refurbishment. Therefore, I do not consider that the proposals are consistent with the requirements of the Island Plan.
114. Proposals for housing development within the Built-up Area are also required to achieve a high quality of design. As I set out above, I conclude that the proposed groundworks would result in a landform that appears man-made and incongruous within the valley setting. The development, which would be located further to the south in the site, would impinge on the shallow valley and appear out of character with its surroundings. The creation of the level terraces, with their straight lines, would result in a conspicuous artificial feature and a vertical edge to the riparian corridor, that does not respect the existing topography and would detract from inward views.
115. The Principal Planner Historic Environment has advised that the proposals, through their effects on landform, would have an impact on the setting of Le Mare d'Angot Bakehouse, which is a Listed building. As I set out above, I consider the immediate setting of the Bakehouse comprises the farmstead within which it is located. However, this grouping is within the same wider landscape as the proposals site. I have concluded that there would be adverse effects on this landscape, contrary to the requirements of Policy GD7, and hence the wider setting of the Bakehouse is not preserved, contrary to the requirements of Policy HE1.
116. In summary, whilst the spatial strategy directs development to the Built-up Area and encourages more efficient use of land, it does not set a precedent for development at any cost. My analysis is that the proposals, by virtue of their siting and location and the form of the proposed groundworks would have unacceptable consequences for inward views and fail to respect the relationship to the topography, landscape features and landscape setting, contrary to the requirements of Policy GD7 parts 1 and 2. Because of the effects on landscape, the proposals fail to preserve the wider landscape context and setting of Le Mare d'Angot Bakehouse, a Listed building, contrary to the requirements of Policy HE1. In addition, I do not consider that adequate evidence has been provided that the existing Ville a l'Eveque Cottage is not capable of repair or refurbishment, and hence its demolition would be contrary to the high threshold set by Policy GD1a. I do not consider that the benefits in terms of the proposed increase in density of use of the site and improved access are sufficient to outweigh these aspects.

Recommendation

117. For the reasons set out above, I recommend that the appeal should succeed and that planning permission should not be granted.

118. The Minister may decide not to follow my recommendation and to confirm the planning permission. In that case, the original permission would stand. Should the Minister choose to confirm the permission, it is recommended that an additional condition be added, which addresses points raised by the Department for Infrastructure (Transport) concerning the construction materials for the junction of the access with Rue de la Falaise.

Sue Bell

Inspector 28/10/2019