

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: Mr Leslie Nevitt

Planning Permission Reference Number: P/2019/1417

Decision notice date: 23 January 2020

Location: Belle Vue, La Route Des Camps, St. Brelade

Description of Development: Demolish existing dwelling. Construct 1 No. two bed and 1 No. three bed dwellings with associated parking and landscaping. Amended plans rec'd.

Appeal Procedure: Site Inspection

Site Visit procedure and Date: Unaccompanied 12 October 2020

Date of Report: 16 November 2020

Procedural Note

1. Article 114 of the Planning and Building (Jersey) Law 2002 sets out procedures for appeals. 'Third-party' appeals are generally to be determined by way of a hearing, but the appellant indicated that they would be unavailable on the proposed hearing date. Having reviewed the written material, I was content that it contained all the information necessary to produce my report. Following consultation with all parties, it was agreed that the appeal would proceed on the basis of the written documents and a site inspection. This is consistent with Paragraph (5) of Article 114 of the Act, which allows for third-party appeals to be considered by way of written representations, following consultation with all parties.

Introduction

2. This is a third-party appeal against the decision to grant approval for demolition of the existing property known as 'Belle Vue' and its replacement with two dwellings, situated one behind the other.

The appeal site and surroundings

3. The appeal site comprises one of a number of long plots situated on the northern side of La Route des Camps, in the parish of St Brelade. The existing bungalow sits at the south of the plot, close to the road and has a generous garden to the north.
4. There are fields to the north of the plot. To the east there are two, two storey detached dwellings, situated one behind the other, which replaced a single dwelling. To the south-east of the plot is a field and to the south-west there is a two-storey property. The plot to the west is occupied by a single dwelling.

The proposed development

5. The existing bungalow would be demolished and two two-storey properties would be constructed, lying one behind the other. The house closest to the road (House 1) would be a 2-bedroom dwelling. It would have parking for two cars to the front (roadside elevation). An undercroft to the east of the property would allow access from the road to the rear property. The roadside elevation would also have a feature gable with Juliet balcony. The dwelling would have 62sqm of garden to the north.
6. House 2 would be a 3-bedroom dwelling. It would also have a feature gable with Juliet balcony on the south elevation. Parking for up to three vehicles would be provided to the south and there would be 145 sqm of garden space to the north.

Case for the appellant

7. The appellant has appealed on the following grounds:
 - Rear house not in line, so too far into rear garden;
 - Overbearing from front house as closer than The Rock;
 - Length of rear house will cut out light from kitchen, dining room and a bedroom;
 - No privacy as hedge is threadbare;
 - Overlooking from bedroom;
 - Insufficient parking.
8. The appellant is particularly concerned about the location of 'House 2', which he considers would reduce light into a dining room and bedroom. He also considers that there would be a loss of privacy as a result of overlooking of his amenity space and that the property would appear overbearing. He further considers there is potential for mutual overlooking between the window marked on the ground floor eastern elevation and his property.

Case for the Growth, Housing and Environment Committee ("the Department")

9. A previous application was refused and the current appealed application had been further modified to alter the originally proposed balconies to Juliet balconies.
10. The proposed arrangement would introduce a new relationship with adjacent properties. In reaching its conclusion, the Department took account of policies in the Island Plan, including policy GD 3, which notes that the density of existing development in an area should not dictate that of new housing; and the approach set out in Paragraph 2.15 of the Island Plan that encourages higher densities and greater housing yields. It is considered that given the presumption in favour of new development within the Built-up Area, change and new relationships between properties will be unavoidable.
11. The Department considered the relationship with neighbours in relation to loss of privacy; loss of light and overbearing. It was considered that the proposals, whilst having some impact on neighbouring properties, did not result in unreasonable harm, which is the test set by policy GD 1.

Case for the Applicant

12. The applicant notes that the position of the houses was decided following consultation with the Planning Officer and provides reasonable amenity space and

sufficient parking for the properties. It is also proposed to provide electric charging points and storage for bicycles.

13. There is an established hedge between the land holdings; a fence or blockwork wall on either side of the boundary could be erected if either occupant felt that further privacy or sound proofing was required. The garden of House 2 is already used as a garden so there is no proposed change in use.
14. 'Nanyuki' faces almost due south and so enjoys direct sunlight for most of the day. The location of House 2 would mean that a small amount of evening sunlight would be blocked, but there are gaps to the rear of the buildings where sun from the west would still reach the rear of 'Nanyuki'.
15. The relationship between the Juliet balcony and the windows of 'Nanyuki' are not different to that of any semi-detached or terraced house.

Consultation Responses

16. The Department for Infrastructure (4 February 2020) indicated that La Route Des Camps falls within the responsibility of the Parish, but noted that the proposals would have minimal impact on the main road system.
17. The Department for Infrastructure - Drainage indicated (3 February 2020) that there is capacity in the public foul sewer for the proposal. There is no public surface water sewer, but it is noted that surface water would drain to soakaway.
18. The response from the Department of the Environment - Natural Environment Team (9 December 2019) requested further information in the form of an initial ecological assessment of the site to enable an evaluation of potential impacts on protected species. This was subsequently provided.
19. The response from the Parish Roads Committee refers to its response to an earlier application and notes that appropriate visibility splays have not been provided. It notes that a privately owned field on the opposite side of the road should not be used for general parking purposes.

Representations

20. Four representations to the application were received from three parties (including the appellant), which raised the following issues:
 - Effect of proposals on sunlight to neighbouring properties to the east and south;
 - Proposals would be overbearing to neighbouring properties to the south and east;
 - Effect on privacy of neighbouring properties;
 - Over-development of site;
 - Noise and disturbance for neighbouring properties;
 - Increase in traffic;
 - Adequacy of parking arrangements.
21. A further representation was received from one of the parties during the appeal, which raised concern about overlooking from a balcony and reiterated points raised during the original application.

Inspector's assessment and analysis of the issues

22. Based on the grounds of appeal and information submitted during the application and appeal stage, I consider the main issues in this appeal are the effects of the proposals on neighbouring amenity and in particular the effects on the neighbouring property, 'Nanyuki', in relation to privacy and overlooking; light; and overbearing.
23. Policy SP 1 of the adopted Island Plan 2011 (Revised 2014) defines the spatial strategy for the Island and directs development to the Built-Up Area. Within the Built-up Area, Policy H6 sets a presumption for housing development, provided the proposal is in accordance with the required standards for housing. The proposal site is within the Built-up Area and satisfies the Department's standards in relation to size of dwelling, amenity space and parking.
24. There are a number of requirements that all developments need to satisfy. Policy GD 3 requires the highest reasonable density of development to be achieved, commensurate with good design, adequate amenity space and parking and without unreasonable impact on adjoining properties; Policy GD 7 specifies criteria in relation to the quality of design, including the relationship to existing buildings, settlement form and character; and Policy GD 1 sets out general development considerations that apply to all developments.
25. Part 1 of Policy GD 1 requires that development contributes to a more sustainable form and pattern of development in the Island in accord with the Island Plan strategic policies SP 1, SP 2 and SP 3. As noted above, I find that the proposal is in accord with the spatial strategy and would make more efficient use of the land.
26. Part 2 requires that proposals do not seriously harm the Island's natural and historic environment, in accord with Policy SP 4 - Protecting the natural and historic environment and that developments will not have an unreasonable impact on the character of the coast and countryside or heritage assets. Measures to safeguard the natural environment have been considered.
27. Part 3 of the policy addresses effects on neighbouring amenity. It requires that proposals should not unreasonably harm the amenities of neighbouring uses, including the living conditions for nearby residents. Five types of effect are particularly identified, including no unreasonable effects on the level of privacy and levels of light.

Privacy and overlooking

28. There is the potential for mutual overlooking between the ground floor windows on the eastern elevation of House 2 and the external amenity space and ground floor window of the neighbouring property. The mutual boundary at this point is currently formed by a hedge. Whilst I accept that this is in a poor state of health for at least some of its length, I saw that it would still provide some screening between the properties. I am not aware of anything that would prevent the replacement of the hedge or the construction of a fence or wall to provide improved screening between the properties. Indeed, I note that the Department has proposed a condition to require this. I further note that one of the proposed windows in House 2 would serve a WC and hence would probably comprise obscured glass.
29. I have considered the effects of overlooking of 'Nanyuki's' rear amenity space from the first-floor windows in the northern elevation of House 2. Whilst there would be

potential for some overlooking, given that the windows would serve bedrooms, I do not find the proposed arrangement to be one that is either unusual or unreasonable within the built-up area.

30. The proposed external amenity space of House 2 is currently used as garden space for the existing bungalow and hence does not represent a change in use.
31. The proposed Juliet balcony would be on the southern elevation of House 2, and hence would not allow any overlooking of Nanyuki's private amenity area to the north. Its position to the west of the proposed House 2, and the solid 'cheeks' of the gable at this point, would mean that any views of the parking area to the front of 'Nanyuki' would be oblique and limited.
32. I have considered the potential for overlooking of the house to the south of the road from the first-floor windows of House 1. The current design includes for a Juliet balcony, which reduces the potential for overlooking. In addition, given the distance between the properties, the presence of the intervening road, and that the window would serve a bedroom, I do not consider that the proposals would result in unreasonable harm to neighbouring amenity as a result of overlooking.

Light

33. During my site inspection I saw that there are two ground floor windows in the west elevation of 'Nanyuki'. These look out on to either a boundary wall (southern window) or the boundary hedge (northern window). I consider that these features would already act reduce the level of direct sunlight reaching these windows from the west.
34. My site inspection took place during the afternoon in early October. At that time the western wall of 'Nanyuki' was illuminated by sun from the south-west. Whilst House 2 would lie to the west of 'Nanyuki', it would also be displaced slightly to the north. I conclude that this would limit any effects on direct sunlight to the western windows of the property from House 2, to short periods of time when the sun is directly in the west and at low elevations. I do not consider that the scale and duration of any reduction in light would result in unreasonable effects on neighbouring amenity.
35. I do not consider that the gable for the proposed House 2 would significantly affect light levels to the first-floor bedrooms in 'Nanyuki'. The first-floor windows on the northern elevation will not currently receive any direct sunlight, due to their orientation and this situation would be unaffected by the proposals. I consider that there is sufficient distance between the side elevation of proposed House 2 and the northern windows of 'Nanyuki' to avoid any shading.
36. As noted above, House 2 is located slightly to the north-west of 'Nanyuki'. This offset position would avoid any substantial shading of the first-floor windows on the southern elevation of 'Nanyuki' and would not result in an unreasonable reduction of light levels.

Overbearing

37. I have addressed above the appellant's concerns in relation to House 2 as a result of overlooking and effects on light.

38. House 1 is located broadly within the footprint of the existing bungalow, although I accept that the northern building line would sit approximately 1.3 metres further north than the northern face of 'The Rock'. I find that the distance between the northern elevation of House 1 and the southern elevation of 'Nanyuki' together with the fact that House 1 would be offset to the west from 'Nanyuki' means that the proposed property would not be unreasonably overbearing or oppressive to 'Nanyuki'.

Other points raised in submissions

39. The appellant has suggested that the building line of House 2 should be in line with that of 'Nanyuki'. Whilst a consistent building line can contribute positively to the design of a streetscape, I am not aware of any guidance that specifically requires this.

Inspector's conclusions and recommendation

40. 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.
41. The proposal is situated within the Built-up Area, where there is a presumption in favour of development. It satisfies the minimum requirements for housing standards, including provision of parking and increases the density of development on the site.
42. For the reasons set out above, I do not consider that the proposals would unreasonably affect the amenities of neighbouring uses, in relation to privacy, light or overbearing. Hence, I find the proposals would be consistent with the requirements of the adopted Island Plan 2011 (revised 2014) and in particular policies GD1, GD3, GD7 and H6.
43. I therefore conclude that the appeal should be dismissed and that planning permission should be granted. This should be accompanied by the proposed conditions as set out on the original decision notice.

Sue Bell

Inspector 16/11/2020