

PLANNING AND BUILDING (JERSEY) LAW 2002 (as amended)

**Appeal under Article 108 against a decision made under Article 19 to
refuse 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:

Sue Gatt

Application reference number and date:

P/2020/0898 dated 13 August 2020

Decision Notice date:

12 November 2020

Site address:

Mannamead, La Route de la Haule, St Peter JE3 7BA

Development proposed:

The removal of a boundary wall at Mannamead to create a vehicular access onto La Route de La Haule

Inspector's site visit date:

14 April 2021

Hearing date:

15 April 2021

Introduction

1. This is an appeal against the Planning Committee's decision to refuse planning permission for the development described above. The application was recommended for refusal.
2. The decision notice records that permission was refused for the following reasons:
 - "1. The proposal would involve the removal of the front boundary wall and front garden in order to create a parking area, a development which would

significantly and detrimentally alter the visual appearance of the street scene and the character of the area. In addition, the creation of the vehicular access would not provide adequate space to enable a vehicle to turn on the site in order to enter the highway in a forward direction nor provide satisfactory visibility to exit the property safely *[sic]*, which would lead to unacceptable problems of highway safety. Therefore, the scheme would be prejudicial to highway safety failing to satisfy the requirements of Policies GD1, GD7 and BE8 of the Island Plan 2011 (Revised 2014)."

Island Plan Policies

3. Relevant extracts from the policies referred to in the decision notice are set out below. In addition, Policy TT13 is also set out since this policy is applicable in this location.

Policy GD1

"Development proposals will not be permitted unless the following criteria are met such that the proposed development ...

5. contributes, where appropriate, to reducing dependence on the car, in accord with Policy SP 6 'Reducing dependence on the car', and in particular ...
 - b. will not lead to unacceptable problems of traffic generation, safety or parking;
 - c. provides a satisfactory means of access, manoeuvring space within the site and adequate space for parking ...
6. is of a high quality of design, in accord with Policy SP 7 'Better by design' and Policy GD 7 'Design quality', such that it maintains and enhances the character and appearance of the Island ..."

Policy GD7

"A high quality of design that respects, conserves and contributes positively to ... the built context will be sought in all developments, in accord with the principles of good urban design, as set out in policy SP7 'Better by design.'"

Policy BE8

"Development proposals involving the loss of front gardens, and their boundary features, to provide for frontage parking with direct access off the public highway will not be approved where this would have a detrimental impact on the character and appearance of the street scene or on highway safety."

Policy TT13

"... The creation of new access points onto the Primary Route Network will be approved, except on La Route de la Haule, between Bel Royal and Beaumont where the creation of new vehicular access points will not be permitted, subject to;

1. the provision of a safe and adequate access; and

2. where it does not adversely affect the ... townscape ... of the Island in accord with ... ; Policy SP 7 'Better by design' and Policy GD 1 'General development considerations'."
4. The punctuation in Policy TT13 is unhelpful, but the preceding paragraph 8.143 makes it clear that the policy is intended to prevent the creation of additional vehicular access points on La Route de la Haule between Bel Royal and Beaumont. Paragraph 8.143 is as follows:

"8.143 Traffic congestion experienced between La Route de la Haule and Beaumont is not only a factor of the volume of traffic using this route but also the capacity of the road itself, which will influence the amount and speed of traffic that can be carried along it. In view of the fact that La Route de la Haule is already at capacity, the creation of additional vehicular access points along this route would only serve to further undermine the capacity of the road still further and, in view of its strategic significance, will not be supported."

The site and its surroundings, existing parking facilities and the proposals

5. Mannamead is a semi-detached house fronting the north side of La Route de la Haule between Bel Royal and Beaumont, about 80m to the east of its junction with La Route de Beaumont. At the front, the house has a boundary wall and a pedestrian gate giving access from the footway. The footway here runs alongside the exit route for buses from a bus stop lay-by.
6. The house has no vehicular access and no parking facilities of its own. Stopping or waiting on this part of La Route de la Haule is prohibited by the Road Traffic (Prohibition of Waiting) (Clearways) (Jersey) Order 1963, except in circumstances that are not relevant in this appeal. Parking on other roads in the surrounding area is either prohibited or time limited. There is an off-street public car park nearby at Goose Green, where parking charges apply and parking is limited to a maximum of 12 hours in a 24-hour period. A public footpath alongside the bungalow next to Mannamead links La Route de la Haule with this car park. The bungalow has a vehicular access across the bus entry route to the bus lay-by.
7. The proposals involve the removal of the whole of the boundary wall and gateway to provide vehicular access to the front garden, most of which would be paved over. A single parking space 4.8m x 2.4m would be provided in a position parallel with the front of the house and the road. A plan has been submitted, showing how a driver could enter in forward gear, reverse within the paved area into the parking space and turn so as to exit in forward gear. A dropped kerb would be provided. The entry and exit movements both involve driving across the bus exit route from the bus stop lay-by.

The case for the appellant

8. The appellant's case is as follows: -
 - There are difficulties with parking in the area, particularly now that there is increased pressure on the Goose Green public car park because of new development. The time limit in the car park creates problems, for example, overnight, or when she goes away or is ill. At present she uses her car to go to work because she has a parking

space there. If she had a parking space at the house, she would be able to leave her car there and cycle or use the bus to get to work, which would be more sustainable.

- The route between the house and the car park involves walking along an unlit and quiet pathway which is a safety risk. Loading and unloading the car is difficult. The parking facilities for the house do not meet disability discrimination requirements because there is not a safe and secure access. [The appellant does not state that she has a disability.]
- Many houses on this stretch of the road have parking spaces at the front with accesses from the road. Mannamead's parking space would be experienced in this context and would not harm the character or appearance of the street scene.
- The plans show that a vehicle could be parked on the space without overhanging the highway and could be manoeuvred on and off the site in forward gear. Traffic congestion and road capacity would be unaffected because there would be no intensification of car use and the number of movements taking place would be insignificant. There would be no effect on bus stop use or bus stop capacity when account is taken of the number of movements, the number of buses using the lay-by and the length of time buses stop at the bus stop.
- Road safety would not be affected because drivers using the parking space would wait until the bus had cleared the layby. The access across the lay-by to the bungalow next door operates satisfactorily.

Other representations

9. Representations have been received from Deputy Huelin and from ten members of the public. All the representations support the case put forward by the appellant.

The case for the Infrastructure, Housing and Environment Department

10. The Department's case is as follows: -

- The Department rely on the reasons for refusal set out in paragraph 2 above, and in addition on Policy TT13.
- The complete removal of the roadside wall and the loss of the front garden to hard surfacing and parking would have a detrimental impact on the character and appearance of the street scene and directly conflict with Policy BE8.
- This is the busiest section of single-carriageway road on the Island and the stretch of road between Bel Royal and Beaumont is specifically highlighted in Policy TT13. This situation would be made worse by the fact that the access would be next to a bus stop and cross a bus lay-by. It is not appropriate to have a vehicle being driven across the bus layby at any time, because of traffic hazards and delays to traffic.

- There are high traffic volumes throughout the day in front of the site and there are a high number of passengers and stopping buses in the layby. There would be conflicts between drivers using the parking space and other drivers as well as with passengers using the footway and the bus stop. Between 2014 and 2018 there were two road traffic casualties in front of the site that were linked to congestion and associated risk-taking manoeuvres. This is a known hazard along this congested route. There have also been many other road traffic incidents on this section of road.
- To enable drivers to enter and leave the parking space in forward gear, the on-site turning movements depend on the forecourt being kept free of obstructions and the parking space being used by a competent driver experienced in the manoeuvres required.
- The parking space would be available to any future occupier of the house and not just to the appellant. It would in fact make it easier to use a car rather than reducing dependence on the car.

Inspector's assessments and conclusion

11. The development will be directly in conflict with Policy TT13, because it will create a new vehicular access point on La Route de la Haule between Bel Royal and Beaumont, where the policy states that new vehicular access points will not be permitted. The reason for this policy is that this is a congested section of the strategic road network and the volume of traffic using it has already reached the full capacity of the road to accommodate it.
12. The development will be in conflict with Policy BE8 if it will have a detrimental impact on the character and appearance of the street scene or on highway safety, because the policy states that development involving the loss of front gardens and their boundary features to provide for frontage parking with direct access off the public highway will not be approved in these circumstances. For the following reasons, I consider that both the character and appearance of the street scene and highway safety would be detrimentally affected by the development.
 - The street scene is already impaired by the loss of front gardens to create parking spaces. In most cases, much of the boundary wall has been retained, but this will not be possible at Mannamead because the bus stop lay-by has reduced the depth of the front garden. At present, the boundary wall and the front garden at Mannamead are pleasing features in the street scene and they would be lost to hard surfacing if the proposed development takes place.
 - I share the Department's concerns about highway safety and I agree with the Department that it is not appropriate for vehicles to be driven across the bus layby, because of traffic hazards and delays. In this location, conflicting and delaying vehicular movements will arise when drivers are waiting in the road to access the parking space and when they exit it. Conflict is also likely between these drivers and pedestrians who are using the bus stop. In addition, whilst the plan shows how turning movements could be carried out within the site, the layout would be very constricted and its practicability would depend on

the skill and knowhow of the driver and the size of the vehicle: some drivers may carry out reversing movements in the highway.

13. I have fully considered the appellant's representations and those of others, but they do not in my opinion provide sufficient justification to depart from the provisions of Policies TT13 and BE8. In particular, the existing arrangements are not unsafe or insecure and are not in breach of disability discrimination requirements. Looking to the future, the parking space would not simply be there for the appellant's use and by the car she has at present; it would be there permanently and for all drivers, including future occupiers of the house and all visitors to the house.
14. I have concluded for the above reasons that the appeal should not succeed.

Inspector's recommendation

15. I recommend that the appeal is dismissed.

Dated 21 May 2021

D.A.Hainsworth
Inspector