

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

Appellants:

Ronceray Care Home Ltd

Application reference number and date:

RP/2020/0714 dated 13 July 2020

Decision Notice date:

12 November 2020

Site address:

Ronceray Care Home, La Rue du Huquet, St Martin JE3 6HE

Development proposed:

Extend approved ground-floor extension to east elevation.

(Revised plans for permission P/2019/1685. Approved development: Construction of ground-floor extension to east elevation and first-floor extension to west elevation. Installation of dormer window to south elevation.)

Inspector's site visit date:

9 April 2021

Appeal dealt with by way of written representations

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. By way of introducing new, harmful overlooking views between the proposed new extension and the existing property and the further extinguishing of the amenity space available to residents, the proposed extension would fail to meet the requirements of Policies GD1 and GD3 of the Adopted Jersey Island Plan, 2011 (Revised 2014).

2. By way of its cramped design and poor relationship with the existing building, the proposed extension would result in a poorly designed addition to the existing property, failing to meet the design requirements of Policies SP7, GD1, GD3, GD7, BE6 and NE7 of the Adopted Jersey Island Plan, 2011 (Revised 2014)."

Island Plan Policies

3. Relevant extracts from the policies referred to in the decision notice and by the appellants are set out below.

Policy SP1

" ... Outside the Built-up Area, planning permission will only be given for development: ...

2. of brownfield land, which meets an identified need, and where it is appropriate to do so ..."

Policy SP5

"A high priority will be given to ... support for ... existing businesses ... in the following ways ...

3. the provision of sufficient land and development opportunities for new and existing employment use."

Policy SP7

The policy indicates that the layout and form of proposed development will be assessed to ensure that the development makes a positive contribution to urban design objectives.

Policy GD1

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

3. does not unreasonably harm the amenities of neighbouring uses, including the living conditions for nearby residents ...
4. contributes to and/or does not detract from the maintenance and diversification of the Island's economy, in accord with Policy SP 5 'Economic growth and diversification' ...
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 GD3

"... the Minister for Planning and Environment will require that the highest reasonable density is achieved for all developments, commensurate with good design, adequate amenity space ... and without unreasonable impact on adjoining properties ..."

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.'

Where the design of proposed development does not adequately address and appropriately respond to the following criteria, it will not be permitted:

1. the scale, form, massing, orientation, siting and density of the development, and inward and outward views;
2. the relationship to existing buildings ..."

Policy BE6

"Development proposals to alter or extend existing buildings will be approved where they: ...

4. respect the space between buildings where it contributes to the character of the building group ..."

Policy NE7

The Care Home is in the Green Zone, where Policy NE7 states "there will be a general presumption against all forms of development". The policy permits exceptions where, as in this appeal, the development would not "cause serious harm to landscape character". These exceptions include extensions to employment buildings where the extension would be well related to the existing building in design and scale (NE7.5) and small-scale incidental development "but only where it ... is well sited and designed, having regard to the relationship with existing buildings ..." (NE7.12).

Policy SCO2

This policy states that proposals for the extension and/or alteration of existing healthcare premises will be permitted if the proposal is within the grounds of existing healthcare facilities. The preceding paragraph 7.34 indicates that the proposals will, in particular, need to accord with the strategic policies in the Plan and also with Policy GD1.

Details of the site and the proposed development

4. Permission P/2019/1685 authorises the construction of a single-storey extension to the southern wing of the Care Home. It would extend the eastern elevation of this wing into the garden of the Care Home. The garden is roughly rectangular and is bounded by Care Home accommodation on two sides and by the site's southern and roadside boundaries on the other sides.

5. The proposed development would be a single-storey addition to the authorised extension and would extend it further into the garden. It would be close to the southern boundary, which it would follow at an angle, and would extend almost to the road. Between them, the approved and the proposed extensions would take up more than half of the Care Home's useable garden space.
6. The approved single-storey extension would contain two en-suite bedrooms. The proposed development would allow a third, larger, en-suite bedroom to be provided. This bedroom's windows would face the garden and the windows of two lounges in the Care Home. The internal layout of the approved extension would be altered so that one of its bedrooms would be slightly larger and there would be a corridor giving access to all three bedrooms and the garden.

The case for the appellants

7. The appellants state that account needs to be taken of the particular requirements of the Care Home regarding the use of the site. They state that the Care Home is an established local business that provides an important care service accommodating twenty-five residents and that the proposed development is essential to the continuation of the business.
8. The appellants draw attention to the Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018, which require care home providers to make changes to their buildings to ensure that residents' rooms meet required standards and that all bedrooms have en-suite facilities, so that residents' privacy and dignity is respected. They state that the proposed development will enable the Regulations to be complied with in accordance with the Jersey Care Commission Standards.
9. The appellants indicate that the layout of the proposed development would create a courtyard area, that there would be no implications for the wider surroundings and that the quality of materials and finishes would complement the existing building. They state that the proposed development would replace the approved first-floor extension and make better use of the available land.
10. The appellants assert that the relevant Island Plan Policies would all be complied with. They make the following specific points: the proposed development is supported in particular by Policies SP1, SP5, GD1.4 and SCO2; a high priority should be given to supporting local businesses; the tests in Policies GD1.3, GD3 and SP7 do not relate to arrangements within a care home site; the proposed development would fall within the exceptions in Policy NE7 to the general presumption against development in the Green Zone.

The case for the Infrastructure, Housing and Environment Department

11. The Department rely on the reasons given in the decision notice for the refusal of planning permission (see paragraph 2 above). They state that the proposed development would introduce new overlooking between the proposed development and the existing building and that it would further diminish the limited amenity space available to residents.
12. The Department maintain that because of its layout and relationship with the existing building, the extension would be a cramped and poorly-designed addition which would be in conflict with the policies referred to. They accept

that paragraphs 5 and 12 of Policy NE7 allow exceptions to be made, but only provided the criteria are met, which they state is not the case in this instance.

13. The Department have taken account of the appellants' representations about the Care Home's business requirements and the standards required under the Regulations. They state that their role and that of the Planning Committee is to assess planning applications on their planning merits.

Other representations

14. No other representations have been received. None of the statutory consultees raised any objections to the proposed development.

Inspector's assessments and conclusions

15. The Island Plan supports the proposed development in the following ways: -
 - Policy SCO2 states that proposals for the extension of existing healthcare premises will be permitted if, as in this case, the proposal is within the grounds of existing healthcare facilities.
 - Policy SP1 accepts the use of brownfield land outside the Built-up Area to meet an identified need. The appellants have identified a need.
 - Policy SP5 gives a high priority to supporting existing businesses by the provision of development opportunities for employment use.
 - Policy GD1.3 accepts development that contributes to the maintenance of the Island's economy in accord with Policy SP5.
 - Policy NE7 makes exceptions for extensions to employment buildings and small-scale incidental development in the Green Zone. There would be no harm to landscape character.
16. Some of the policies that have been referred to by the parties carry little weight in the context of this appeal: -
 - None of the urban design objectives in Policy SP7 is directly applicable.
 - Policy GD1.3 relates to uses beyond the Care Home rather than to amenities within its grounds.
 - The proposed development is not significant enough to affect the character and appearance of the Island contrary to Policy GD1.6.
17. The appellants have obligations to comply with the Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018 and the Jersey Care Commission Standards. These obligations establish a need within the planning policies and a high planning priority for business support, but the care system and the planning system are separate regimes and consideration should be given to other aspects of planning policy that are not necessarily favourable to the proposed development. These are: -
 - The reference in Policy SP1 to "where it is appropriate to do so".
 - The reference in Policy GD3 to "adequate amenity space".

- Criteria 1 and 2 in Policy GD7 and the objectives of the policy with regard to the built context.
 - The respect for space between buildings referred to in Policy BE6.
 - The stipulations relating to existing buildings set out in Policies NE7.5 and NE7.12.
18. The main planning considerations in these respects are, firstly, the distance between the proposed development and the nearest parts of the Care Home and, secondly, the adequacy of the remaining garden area.
19. As to the first of these, the distances between the only windows in the bedroom in the proposed development and the nearest facing windows in the Care Home's lounges would only be between approximately 5.5m and 6.0m, and the garden area would fill the space between them. The privacy of the bedroom would be seriously impaired as a result of the intrusive views that would be available.
20. As to the second, I understand that the remaining garden area would comply with the Regulations and Standards, since they do not lay down specific outdoor space requirements. However, from a planning standpoint it seems to me that the amenities of the Care Home as a planning unit would be significantly reduced, because the remaining garden area would be very small in relation to the amount of accommodation provided and because the layout of development would be cramped and most of the ambiance of the existing garden space with its open southerly aspect would be lost.
21. As a consequence of my assessment of these considerations, the proposed development would be in conflict with Policies SP1 (appropriateness), GD3 (adequacy of amenity space), GD7 (positive contribution to built context; siting; relationship to existing buildings), BE6 (space between buildings) and NE7 (relationship to existing building).
22. These disadvantages should be weighed in the planning balance against the positive support for the proposed development which I have identified in paragraph 15 above. In my planning judgement, the balance weighs against the proposed development because of what I consider in this instance to be the overriding importance of the concerns discussed in paragraphs 19 and 20.

Inspector's recommendation

23. I therefore recommend that the appeal is dismissed.

Dated 25 May 2021

D.A.Hainsworth

Inspector