

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

Appeal under Article 108 against a decision made to grant a planning permission

REPORT TO THE MINISTER FOR PLANNING AND ENVIRONMENT

By Mr Philip Staddon BSc, Dip, MBA, MRTPI

Appellants: Mr Adam Fabian and Mrs Jessica Fabian (Third Party Appellants)

Site address: Rydal Mount, La Rue de la Guilleaumerie, St. Saviour, JE2 7HQ

Application reference number: P/2021/1436

Proposal: 'Remove roof and construct first floor extension'

Decision notice date: 18 May 2022

Procedure: Hearing held on 6 September 2022

Inspector's site visit: 5 September 2022

Inspector's report date: 30 September 2022

Introduction

1. This report contains my assessment of the third party appeal made by Mr and Mrs Fabian. The appeal is made against the decision to grant planning permission to remove the roof and construct a first floor extension at a dwelling known as *Rydal Mount* in the Parish of St Saviour. The proposed development is near to the appellants' home.
2. For clarity, under the Law¹, the decision to grant permission remains in effect, but the development cannot be implemented until this appeal has been decided.

Procedural matters

3. In the course of the application, the proposal was amended and the decision to grant planning permission related to the submitted amended plans. I have made my assessment solely on the basis of the scheme as detailed in those amended plans.
4. A new development plan, the Bridging Island Plan (BIP), was adopted in March 2022 and the application was determined in May 2022 under its

¹ Article 117(1) and (2) - Planning and Building (Jersey) Law 2002 (As Amended)

policies. I have noted that some comments on the application and the appeal make some references to policies and policy tests in the now superseded Revised Island Plan (2014) (RIP). I have made my assessment solely on the basis of the BIP policies.

5. The 'existing plans, elevations and sections' drawing contains an error. The ground floor layout indicates that there is no internal connection between the 2-storey original dwelling and the attached annex. I noted on my site inspection that the 2 elements are internally connected.
6. In my preparation for the Hearing, I became aware that the neighbouring property immediately to the west of *Rydal Mount* is a Listed building. As the papers before me were silent on this matter, I invited written submissions from the parties on whether the proposal met the requirements of the relevant policy (HE1), concerning the effects of development proposals on Listed heritage assets. I have considered those submissions and the matter was also discussed at the Hearing.

The appeal site, the proposal and the application determination

7. *Rydal Mount* is a dwelling which is situated within a small cluster of residential properties on the east side of La Rue de la Guilleaumerie. The dwelling is sited at the northern end of its long triangular plot. The location is outside of the defined built-up area and within the Green Zone.
8. The property is of a somewhat quirky design and layout, as it comprises a single storey element at the front, which has the appearance of a bungalow, and an attached 2-storey element at the rear, which looks like a house. I understand that the single storey element was constructed as an 'annex' to provide accommodation for a dependent relative, albeit that it has a bigger footprint than the original 2-storey house.
9. The existing floorplans indicate that the single storey part includes an integral garage, a bedroom, 2 kitchens, a utility room, a lounge, bathroom and small conservatory. The house element includes a lounge, dining room and conservatory on the ground floor, with 3 bedrooms and a bathroom on the first-floor level.
10. To the east of the appeal property is *Hideaway*, the appellants' detached home set within its mature garden plot. To the north, and separated by a private drive, is a detached house known as *New Morley*. To the west of the site is another residential property, *La Vieille Guilleaumerie*, which is a Listed² (grade 3) 18th century farmhouse with later additions and outbuildings.
11. The appeal proposal seeks to add a first floor above the existing single storey annex element which would provide a master bedroom with ensuite, 2 further bedrooms (each with ensuite) and a home office. The extension would have a corridor link to the 'house' part, where some internal remodelling is indicated to create 2 bedrooms (currently 3) and a bathroom. Although the facing materials are not specified on the drawings, Mr Harding,

² Listed building reference SA0191

the applicants' agent, confirmed that the walls would be faced in weatherboard cladding and the roof in slate. The pitched and hipped roof over the main part of the extension would be about 1 metre lower than the roof ridge of the house and the link element (containing the home office and corridor) would be lower still.

12. At the application stage, the officer report records that 2 letters of objection had been received, although one was later retracted. The grounds of objection included concern about loss of light and sunlight, potential damp ingress to the neighbour's property, loss of privacy and impact on a nearby monkey puzzle tree (within the grounds on *New Morley* to the north).
13. However, officers assessed the proposal to be acceptable and granted planning permission on 18 May 2022. The 'reason for approval' set out on the decision notices states: *The proposed development is considered to be acceptable having due regard [to] all of the material considerations raised. In particular, the development has been assessed against Policy GD1, GD6 and NE3 of the 2022 Bridging Island Plan. Notably, the relationship with neighbours has been specifically considered in relation to a possible loss of light and a loss of privacy. In this case, the proposed extension is regarded as acceptable due to the marginal impact it would have on neighbouring properties and the Green Zone.*
14. Mr and Mrs Fabian's appeal is made against that decision.

Summary of the appellant's grounds of appeal

15. The appellants' case is set out in the appeal form and a more detailed statement of case. The appeal form cites 8 grounds which are:
 - i) The proposal would facilitate significant increased occupancy contrary to the general presumption of Green Zone policy
 - ii) It will result in loss of light and overshadowing to neighbouring property
 - iii) It will result in overlooking and loss of privacy to neighbouring property
 - iv) Its visual impact would be a monolithic unsympathetically designed extension not in keeping with the existing building
 - v) The proposal fails to apply policies in relation to adequacy of space for vehicle parking and turning
 - vi) The assessment has failed to consider road safety considerations
 - vii) The application contained inaccurate plans which did not identify all rooms being used as bedrooms in practice
 - viii) There has been a failure to verify the accuracy of the plans on site.
16. The statement of case expands on grounds i) – vi).

Summary of the applicants' case and responses

17. The applicants' statement of case explains the built context and the extension proposal and how it is designed to meet the needs of a multi-generational family, which includes 3 growing children and an elderly grandmother. The statement then explains how the scheme was amended and refined in the light of neighbour consultations and feedback from the planning department.
18. The main part of the statement provides the applicants' rebuttal of the 8 grounds of appeal. The applicants submit that there would be no significant increase in occupancy; that there will be no loss of light/overshadowing for the majority of any day; that privacy impacts are acceptable and the applicants are willing to accept conditions requiring side windows to be obscure glazed and the units to have restricted openings; the visual impact is acceptable; there is plenty of parking and turning space on the site; that the plans are accurate; and that it is believed that the site was visited by the planning case officer.

Summary of the Infrastructure Housing and the Environment (IHE) Department's case

19. The IHE case is set out in its officer report, a response document and a second response document. It explains that the proposal was considered against the relevant BIP policies. It was assessed not to cause harm to the landscape character within the Green Zone and therefore met the requirements of policy NE3, and it was also judged to conform with policy H9 which allows for home extensions outside the built-up area, subject to meeting criteria, including being subservient to the dwelling and not disproportionately increasing its size.
20. IHE submits that the ground of appeal concerning occupancy is not an issue for this appeal, as it is not a policy criterion for home extensions in the Green Zone. IHE is satisfied that the proposal will not result in unreasonable amenity impacts and therefore accords with policy GD1. It further assesses that parking and turning facilities are acceptable, that the drawings are considered accurate and that the case officer did visit the site.

Inspector's assessment

Key policies

21. I begin my assessment by identifying the key policy considerations that apply to this domestic extension in its Green Zone location. This is important, because the relevant BIP policies differ from the RIP policies they have replaced. The now superseded RIP relied on an 'exceptions list' policy approach to permissible developments outside the built-up area, with different lists and criteria applicable to developments in the Green Zone and the Coastal National Park. This has now been replaced by a suite of policies that, in essence, gives primacy to landscape (and seascape) character considerations.

22. At a strategic level, BIP policy SP2 provides that, outside the built-up area, development will only be supported where a countryside location is appropriate, necessary and justified in its location; or where it involves the conversion, extension and/or subdivision of existing buildings.
23. Policy H9 addresses housing outside the built-up area and presumes against new residential development unless it falls into one of 6 specified exception categories, one of which includes home extensions.
24. Policy NE3 specifically addresses 'landscape and seascape character'. It requires new development to protect or improve landscape and seascape character. It says that proposals that do not protect or improve landscape/seascape character will not be supported, unless they meet a range of criteria including being demonstrably necessary; there being no reasonable alternative; that harm has been avoided, mitigated and reduced as far as reasonably practicable; and that the public benefit of the proposal outweighs the harm to the landscape and seascape character and where the nature of that benefit to the public is clear, direct, and evidenced.
25. Policy GD1 covers 'managing the health and wellbeing impact of new development' and requires all development proposals to be considered in relation to their potential health, wellbeing and wider amenity impacts. It requires that developments must not unreasonably harm the amenities of occupants and neighbouring uses, including those of nearby residents, and in particular, will not: create a sense of overbearing or oppressive enclosure; unreasonably affect the level of privacy to buildings and land that owners and occupiers might expect to enjoy; unreasonably affect the level of sunlight and daylight to buildings and land that owners and occupiers might expect to enjoy; adversely affect the health, safety and environment of users of buildings and land by virtue of emissions to air, land, buildings and water including light, noise, vibration, dust, odour, fumes, electro-magnetic fields, effluent or other emissions.
26. Policy GD6 seeks design quality in new developments and lists key principles and considerations. These include the relationship to existing buildings, materials and detailing, impact on neighbouring uses, and the sustainable use of resources.
27. Policy HE1 requires proposals to protect Listed buildings and places and their settings. Proposals that do not will only be allowed if they meet specified exceptions.

Ground 1 – occupancy

28. Extensions to dwellings situated outside of the built-up area are within the scope of permissible development under SP2. However, policy H9 establishes the parameters for acceptable additions to homes, given the BIP's restraint on new development outside the built-up area and its focus on protecting the landscape. Policy H9, exception 1, allows for a home extension provided that *'it remains, individually and cumulatively, having regard to the planning history of the site, subservient to the existing*

dwelling and does not disproportionately increase the size of the dwelling in terms of gross floorspace, building footprint or visual impact’.

29. Whilst ‘occupancy’ is not cited as a consideration within the wording of H9, it is clearly linked to ‘size’.
30. In this case, the starting point is a dwelling that began as a modest scale 2-storey house and has had a very large single storey annex added to it. It is unclear whether that annex addition was authorised, as the planning history provided to me did not include any record of such an application. Based on the planning history and dimensions shown on the submitted drawings, the original house appeared to have a floorspace of about 104 square metres³ and a conservatory has been added giving a floorspace of about 125 square metres.
31. The single storey annex, believed to have been added in the 1980s, is larger. I calculate from the dimensions stated on the plans that it has a gross floorspace of 154.6 square metres, with a small conservatory of about 8 square metres.
32. The extension would be quite substantial, as it would be the same area as the ground floor annex, i.e., 154.6 square metres. To put that figure in some context, that is a bigger floor area than most new build family houses in the UK. Moreover, it would mean that the extended property would have a floorspace of some 442.2 square metres⁴, or about 413 square metres, not including the conservatories. If the current application proposal was permitted and built it would mean that the size of the dwelling’s gross floorspace would have increased by about 4 times that of the original dwelling.
33. When considered against the policy H9 parameters, the proposed extension, along with the earlier additions (notably the annex), would be a quite disproportionate increase in gross floorspace. The additions would be much larger than the original property and could not therefore be considered subservient, which is a policy requirement in this Green Zone location outside the defined built-up area.
34. The end product would be a very large house and there can be little doubt that it could facilitate significantly increased occupancy. Whilst I note the applicants’ submissions that their family occupation would not change, this does not alter the fact that a substantial amount of additional habitable floorspace would be provided in a location where the BIP seeks to restrain new development, in the interests of the environment and sustainability.
35. On this ground of appeal, I conclude that the size of the proposed extension would, when taking into account the planning history of earlier additions, disproportionately increase the size of the dwelling in terms of gross

³ 51.89 square metres on the ground and first floors based on the dimensions shown on the ‘existing plans, elevations and sections’ drawing (8.303metres x 6.250 metres)

⁴ 125 square metres (original house plus conservatory) + annexe (154.6 square metres) + conservatory (8 square metres) + currently proposed extension (154.6 square metres) = 442.2 square metres

floorspace. This would conflict with policy H9 which seeks to limit the size of home extensions in locations outside the defined built-up area.

Ground 2 – light/overshadowing

36. The proposed first floor extension has been designed to sit below the eaves and ridge heights of the 2-storey part of the existing dwelling. The extension's eaves height would be 4.55 metres and the roof ridge height would be 7.244 metres, although most of the roof form facing the appellants' home, *Hideaway*, would be stepped down and lower.
37. I have noted the appellants' concerns about overshadowing and loss of light, including to its front garden, patio and side conservatory, which is currently used as a living room and playroom. However, the set down height of the extension, along with the intervening space between the 2 properties, means that the effects in terms of overshadowing/loss of light would be limited and would not, in my view, be unreasonable.
38. In reaching my view, I have taken into account the modest variation in site levels relative to the appellants' property. I have also taken into account another appeal decision⁵ referred to by the appellants, but I found the circumstances to be different, as it related to a household extension much closer to a neighbour's boundary and on the south side of the neighbour's dayroom, patio and kitchen.
39. I have also assessed the impacts on *New Morley* to the north, and *La Vieille Guilleaumerie* to the west, and consider that any loss of light/overshadowing effects would be limited and well within acceptable parameters.
40. With regard to loss of light/overshadowing, I am satisfied that there would be no unreasonable effect and policy GD1 is satisfied in that specific regard.

Ground 3 – privacy

41. On the east side of the proposed extension, 3 window openings are proposed: a first floor window serving an ensuite bathroom in the side elevation; a small first floor window serving the proposed home office in the rear elevation; and a rooflight (above the home office).
42. The appellants are concerned that their conservatory, which is used for habitable space, and garden areas used for play and leisure purposes, would be overlooked. However, the ensuite bathroom window would be obscure glazed with a top opening light, the office window faces south (down *Rydal Mount's* Garden) and the height of the rooflight precludes anyone standing in the home office overlooking neighbours' property.
43. At the Hearing, the applicants offered belt and braces conditions and further obscure glazing if the Minister considered it appropriate, although I do not consider this to be necessary. I am satisfied that there would be no

⁵ P/2021/1804 Les Quatre Saisons, 1 Abbey Close, La Grande Route de St Jean, St Helier

unreasonable effect on levels of privacy currently enjoyed by occupants of the *Hideaway* and that aspect of policy GD1 is complied with.

Ground 4 – design and visual impact

44. As the proposal is within an existing cluster of dwellings and is of a restrained height, it does avoid any wider impact on the landscape and this satisfies policy NE3. However, it is nonetheless a very big addition to what was originally a rather modest 2-storey dwelling.
45. In my assessment, the design appears to be constraint driven, rather than being design led in terms of the policy GD6 considerations. The large footprint has been treated as predetermined by the outline of the ground floor annex. The roof form seems to have been 'designed' to avoid excess mass, but the shallow pitch is at odds with the steeper pitches on the host property and nearby dwellings, which define the character of this cluster of rural dwellings. The fenestration is also a product of site constraints and seems rather random. For example, on the north elevation the ground and first floor openings are misaligned, such that the top and bottom could be from different buildings, an effect amplified by the contrasting proposed materials.
46. The overall result is a rather large and uninspiring muddle which lacks any coherence with the original 2-storey host dwelling, or with the character and appearance of the area. The design is by no means dreadful, and would no doubt create some very pleasant and spacious internal accommodation, but, externally, it is just not very good and, in my view, falls short of the high standard of design expected by policy GD6.

Ground 5 and 6 – parking and turning and highway safety

47. *Rydal Mount* has a short road frontage with La Rue de la Guilleaumerie which contains its vehicular access. That leads to a hardstanding area in front of the garage doors within the annex. There is also a further hardstanding area, accessed through a five-bar gate, on the south side of the annex.
48. In my assessment, it would be possible to park 3 or 4 small/medium sized cars, and allow for turning, within the space available. Whilst acknowledging that the garage might increase the vehicle storage capacity, it is not particularly deep and may be impractical for most modern cars. I have noted reference to 'parking standards', but I have previously assessed that such standards are woefully out of date⁶ and emanate from a 'predict and provide' era, which predated planning policies that seek to minimise car use and encourage other sustainable modes of travel.
49. In the absence of any new standards in the BIP, and the lack of any evidence to the contrary, I have no reason to believe that parking/turning provision at the property could not adequately service the needs of the

⁶ States of Jersey Supplementary Planning Guidance Policy Note 3 – Parking Guidelines September 1988

extended dwelling, particularly if the occupants were to use sustainable travel options.

50. With regard to the safety of the access, it actually has relatively good visibility. This is a consequence of the bend in the road, which enables an emerging driver to see approaching cars in both directions. This, combined with the narrow road width and low traffic speeds that I observed, means that I do not consider that there is evidence that suggests any undue safety issues. I do agree with the appellants that a reversing manoeuvre out of the drive would be less safe, but that would be the case whether or not the extension was permitted. I do appreciate that greater occupancy facilitated by the large extension could increase vehicle numbers, making on site congestion possible and perhaps leading to a greater likelihood of reversing movements. However, in the absence of any evidence, that feels a somewhat speculative prediction and, in my mind, more a matter to be managed on site by the occupiers.

Grounds 7 and 8 – accuracy of plans

51. Other than a minor discrepancy on the internal layout plan (see paragraph 5 above) which has no bearing on the grounds of appeal, there is no evidence to suggest that the plans do not accurately reflect the development proposed. I have taken into account the minor variations in levels between the site and the neighbouring property in making my assessment.

Other matter – heritage

52. *La Vielle Guilleaumerie* is a Listed 'farm group' located immediately to the west of *Rydal Mount*. It is grade 3 Listed⁷ and the statement of significance included in the Listing records: *18th century farmhouse which retains its historic character, with later wing and outbuildings that contribute to the rural setting.*
53. The Listing description records details of the original 5 bay farmhouse and its later 19th century 5 bay extension. It makes specific reference to the rear (north) elevation being constructed of a slate roof, sloping to single storey, with extended full and half dormers and with walls of rubble with dressed stone openings.
54. Policy SP4 gives a high priority to 'protecting and promoting island identity', including that all development should protect or improve the historic environment. Policy HE1 addresses 'protecting Listed buildings and places, and their settings' and says that proposals that could affect the setting of a Listed building must protect its special interest, and that all proposals should seek to improve the significance of Listed buildings and places. The policy does include an exception provision, although I do not consider that any of the stated exceptions apply in this case.
55. The proposed extension would not cause any physical harm to the Listed farm group of buildings. However, it would be within the setting of the heritage asset. Both the applicants and the IHE have made reference to the

⁷ HER Reference SA0191

separation distances between the 2 properties and the intervening vegetation, and contend that the special significance of the heritage asset will be protected.

56. I am not persuaded by those assessments, as the extension would be very large and, whilst its height has been limited, it would intrude in views gained within the setting. Based on the evidence before me, parts of the extension would be glimpsed in the principal view from the south, which is one of its most important aspects. This is apparent from the photograph that appears in the Listing, where the 2 *Rydal Mount* chimneys are visible reference points. Whilst the effect is limited, it would nonetheless be an unwelcome intrusion that would erode the setting of the Listed building and denude its contribution to the rural setting noted in the statement of significance. I have noted the boundary vegetation which does mitigate the harm to some extent, but there is no certainty that this will be maintained in the longer term.
57. The extension would also be visible from the rear of *La Vielle Guilleaumerie* including its half dormers, yard and outbuilding. The effects will be limited and relatively minor intrusions, i.e., parts of the extension would be visible from certain angles. Again, I have noted the relatively dense vegetation that acts as a screen currently, but this does not, in my assessment, fully mitigate the impacts and may not always be in place.
58. In conclusion on this matter, the large size of the extension and its proximity would have some negative effect on the setting of *La Vielle Guilleaumerie*. The effect is quite limited but, nonetheless, I judge it to cause some limited harm and I cannot conclude that the setting of the heritage asset would be protected, or that the significance of the Listed farm group would be improved. I therefore find that the proposal would conflict with policies SP4 and HE1.

Conclusions and recommendation

59. I am satisfied that the proposed extension would not cause unreasonable loss of light or privacy to the occupiers of neighbouring properties. I am also satisfied that parking and highway matters are acceptable in planning terms. However, the size of the extension is disproportionately large and this conflicts with policy H9 which seeks to limit the size of home extensions in locations outside the defined built-up area. I also assess that the standard of design falls short of that expected by policy GD6. I further conclude that this large extension would cause some limited harm to the setting of the neighbouring Listed farm group of buildings, and would conflict with policies SP4 and HE1.
60. I therefore recommend that the Minister allows this appeal and refuses to grant planning permission for application reference P/2021/1436 for the following reasons:

Reason 1: The large size of the proposed extension, when considered alongside the planning history of the site and earlier additions to the host property, would not be subservient to the existing dwelling and would

disproportionately increase the size of the dwelling in terms of gross floorspace, contrary to policy H9 of the Bridging Island Plan (adopted March 2022) which seeks to limit home extensions in locations outside of the defined built-up area.

Reason 2: The design of this large extension fails to respect and respond to the character and appearance of the host property and the distinctive characteristics of its surrounding context in terms of matters including form, scale, materials and fenestration. This conflicts with the high standard of design required by policy GD6.

Reason 3: This large extension would cause some limited harm to the setting of the neighbouring Listed farm group of buildings, *La Vielle Guilleaumerie*, and this would conflict with policies SP4 and HE1, which seeks to protect the special interest and significance of Jersey's Listed buildings.

P. Staddon

Mr Philip Staddon BSc, Dip, MBA, MRTPI

Main Appearances at the Hearing

For the Appellants: Mr and Mrs Fabian

For the Applicant: Mr Harding (BDK Architects), Mr Bosio

For the Department: Mr Gladwin