

## **PLANNING AND BUILDING (JERSEY) LAW 2002**

### **Appeal under Article 108 against a decision made under Article 19 to grant a 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

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#### **Appellants:**

The Dene Court Association (on behalf of the residents of Dene Court)

#### **Planning permission reference number and date:**

P/2022/0515 dated 19 May 2022

#### **Applicants for planning permission:**

LD Developments

#### **Site address:**

Le Feugerel de La Marquanderie, La Route Orange, St Brelade JE3 8GP

#### **Approved development:**

“Construct first floor extension over the existing garage to the North elevation. South orangery to replace existing conservatory. First floor extension to South-East over existing single storey wing of building.”

#### **Decision date:**

29 September 2022

#### **Inspector’s site visit date:**

7 February 2023

#### **Hearing date:**

10 February 2023

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#### **Introduction**

1. This is a third-party appeal against the grant by the Planning Committee of planning permission for the development described above. The application was recommended for approval by the Infrastructure, Housing and Environment Department.

2. The permission was granted subject to the standard planning conditions relating to the commencement of the development and compliance with the approved details and to an additional condition requiring the implementation of the approved Species Protection Plan.
3. The reason given for the grant was: "Permission has been granted having taken into account the relevant policies of the approved [Bridging] Island Plan, together with other relevant policies and all other material considerations, including the consultations and representations received. Notably, the relationship with neighbours has been specifically considered. Based on submissions and consultation responses it is considered that the proposal will not result in unreasonable harm to the amenities of neighbours."

### **The site and its surroundings and the approved development**

4. Le Feugerel de La Marquanderie is a detached house in a row of residential properties in the built-up area on the south side of La Route Orange a short distance to the west of Red Houses. Dene Court is a three-storey apartment block immediately to its east, the ground floor of which is at a lower ground level than the house. Dene Court has windows on all three floors of its western elevation facing Le Feugerel de La Marquanderie and has balconies on all three floors at the back near to its western boundary.
5. The approved development would take place near to Dene Court. It would be in two distinct parts – (1) a first-floor extension over the garage at the front of the house and (2) at the rear of the house, an orangery and a first-floor extension over the single-storey wing of the house. The two parts would be separate, both functionally and as building operations. The Minister could therefore issue a 'split' decision under Article 116(2), which authorises the Minister to allow an appeal in full or in part and to reverse or vary any part of the Committee's decision.

### **Summaries of representations made by the parties and others**

6. The appellants contend that:
  - 1) The development will unreasonably affect the health and wellbeing of Dene Court residents, contrary to Policy GD1 of the Bridging Island Plan. They draw particular attention to the effect on the residents in Apartments 2, 4 and 6 on the western side of Dene Court, whose side windows and rear balconies would be nearest to the development. The development will result in overbearing and oppressive enclosure, loss of sunlight and daylight and loss of outlook.
  - 2) The development's relationship to Dene Court is unacceptable because of its height and massing, contrary to Policy GD6. This occurs because of the extent to which the house will project beyond its main northern and southern elevations.
  - 3) The development's external materials and colours are inappropriate and contrary to Policy GD6, because black slate tiles will be used on the roofs. This will be unduly oppressive, particularly when viewed from Apartments 4 and 6.

- 4) Highway safety will be adversely affected, contrary to Policy TT1, because the gates to the house would not be set back, contrary to the recommendation of IHE Transport.
7. The residents in Apartments 2, 4 and 6 have submitted representations individually that support those made by the appellants.
8. The Infrastructure, Housing and Environment Department do not accept that the development will be overbearing or oppressive or result in an unreasonable loss of light. They state that both extensions will be set off from the boundary with their roofs slanting away from Dene Court and point out that Dene Court's dense evergreen hedge will be adjacent to the rear extension. They maintain that the design of the development is in keeping with the house and that the external materials will complement its appearance. Since the development will not increase the current occupancy level of the house, changes to its vehicular access are not called for.
9. The applicants maintain that the development has been designed throughout so as to minimise its effect on Dene Court. Daylight and sunlight standards will be maintained. The pitch and height of the roof extension to the north will ensure that it is not overbearing. The roof terrace at the rear, which overlooks Dene Court, will be built over. Standards of privacy will be improved. Since there will not be any additional bedrooms, the existing access arrangements can be retained.

### **Inspector's assessments and conclusions**

#### *The first-floor extension over the garage at the front of the house*

10. The main concern relating to this part of the development is the effect the extension will have on the nearest bedroom windows that will face it on the side of Apartments 2, 4 and 6 Dene Court.
11. The height of the garage wall facing Dene Court will not be increased, but the existing shallow-pitched roof over the garage, which has a ridge height lower than the eaves of the house, will be replaced by an asymmetrical pitched roof, with its long slope facing Dene Court, rising to a ridge height well above the eaves of the house and being much larger owing to its extra height and its linkage to the opposing roof pitch of the house.
12. Apartment 2 is on the ground floor. The existing outlook from its side bedroom window is poor because the apartment is at a lower level than the house and there is a boundary fence on top of the higher ground as well. As a consequence, only the top of the new ridge is likely to be visible from the bedroom window and there is unlikely to be any further loss of daylight or sunlight at this window. Viewed externally, however, Apartment 2 will look even more hemmed in than it does at present.
13. Apartment 4 is on the middle floor. The outlook from its side bedroom window at present takes in, over the fence, the side of the existing shallow-pitched roof of the garage and the sky above it. This outlook will be seriously obstructed by the height and depth of the new roof and at certain times of the year there is likely to be some loss of sunlight at this window.

14. Apartment 6 is on the top floor. At present, there is an unobstructed outlook from its side bedroom window over the top of the shallow-pitched roof and beyond. This outlook will be lost because of the height and depth of the new roof and, again, at certain times of the year there is likely to be some loss of sunlight at this window.
15. Policy GD1 (“Managing the health and wellbeing impact of new development”) states that all development proposals must be considered in relation to their potential health, wellbeing and wider amenity impacts, and will only be supported where the development will 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 or unreasonably affect the level of sunlight to buildings that owners and occupiers might expect to enjoy.
16. In my opinion, the first-floor extension over the garage at the front of the house will unreasonably harm the amenities of the residents in Apartments 2, 4 and 6 Dene Court, contrary to the provisions of Policy GD1. I have therefore recommended that the appeal should be allowed in respect of this part of the development and that planning permission for it should be refused.

*The orangery and the first-floor extension over the single-storey wing at the rear of the house*

17. No objections have been made to the replacement of the conservatory by the orangery. The orangery will be to the west of the wing and I do not consider that it will have an impact on Dene Court.
18. At present, views of the wing from Dene Court are obscured by evergreen trees on Dene Court's land, which detract from the outlook from Dene Court. I understand these trees were planted by Dene Court's management in order to prevent the overlooking of Dene Court that would otherwise occur from the roof terrace on top of the wing. The construction of the first-floor extension over this terrace will remove the overlooking issue and the need for the tree screen, and in these respects it will result in an improvement in Dene Court's amenities.
19. The extension will not result in an increase in the height of the wing's side wall facing Dene Court, since the works on this side will consist only of the construction of a pitched roof over the wing, sloping away from Dene Court. The roof will only be visible at an angle from the windows and balconies at the rear of Dene Court and it will be further away from Dene Court than the first-floor extension over the garage at the front of the house. I do not consider that this extension will have a significant effect on Dene Court as respects outlook, sense of enclosure, daylight or sunlight.
20. I have concluded that the orangery and the first-floor extension over the single-storey wing at the rear of the house will not unreasonably affect the health and wellbeing of Dene Court residents, contrary to Policy GD1. After taking into account the additional matters dealt with in paragraphs 21 to 24 below, I have recommended that the appeal should be dismissed in respect of this part of the development and that planning permission for it should be granted. No new planning conditions are needed and the permission should be made subject to conditions corresponding to those referred to in paragraph 2 above.

*The extent to which the house will project beyond its main northern and southern elevations*

21. Since the extensions will take place above the existing northern and southern extensions to the house, there will be no increase in the extent to which the house projects outwards at ground level in either direction. The upwards extensions will be in keeping with the existing design of the house on its western side and there will not be an adverse impact on the appearance of the house or the street scene. The provisions of Policy GD6 will be complied with in these respects.

*The roofing materials*

22. The extensions will be roofed with natural slates and the existing clay tiles on the house, which are in need of repair, will be replaced by natural slates. The use of natural slates will be in keeping with other properties in the area and I do not consider that their effect on Dene Court will be oppressive or contrary to Policy GD6.
23. The applicants have made an offer to the appellants to use tiles of a similar appearance on the extensions to those presently used on the house. In my opinion, this is a matter for them and is not something that should be required by a planning condition.

*The vehicular access to the house*

24. The recommendation of IHE Transport was based on the development "representing minor intensification of the site" because of an additional bedroom. The plans were revised and as approved do not show an increase in the number of bedrooms. I agree with the Department that since the development will not increase the current occupancy level of the house, changes to the vehicular access to the house are not called for.

**Inspector's recommendations**

25. I recommend that the appeal is allowed in so far as it relates to the extension over the garage and that planning permission is refused for the construction of a first-floor extension over the existing garage to the North elevation of Le Feugerel de La Marquanderie, La Route Orange, St Brelade JE3 8GP.
26. I recommend that the appeal is dismissed in so far as it relates to the orangery and the extension over the wing and that planning permission is granted for development at Le Feugerel de La Marquanderie, La Route Orange, St Brelade JE3 8GP consisting of the replacement of the existing conservatory by an orangery and the construction of a first-floor extension over the existing single-storey wing at the South-East of the house, in accordance with the application P/2022/0515 and the plans and documents submitted therewith relating to the orangery and the extension over the wing, subject to the following conditions: -

*Standard conditions*

- A. The development shall commence within three years of the date of this appeal decision.

Reason: The development will need to be reconsidered in the light of any material change in circumstances.

- B. The development shall be carried out entirely in accordance with the approved plans and documents in so far as they relate to the orangery and the extension over the wing.

Reason: To ensure that the development is carried out as approved.

*Additional condition*

1. No development shall take place until the measures set out in the approved Species Protection Plan (ref: NE/ES/FG.02, 29th July 2022, Nurture Ecology Ltd.) have been implemented in full. The measures (where applicable) shall be maintained throughout the construction of the development and shall thereafter be retained as such. Any variations that may be required as a result of findings on site shall be agreed in writing by the Chief Officer prior to the variations being carried out.

Reason: To safeguard the natural environment and biodiversity and geodiversity in accordance with Policies SP5 and NE1 of the Bridging Island Plan.

Dated 6 April 2023

*D.A.Hainsworth*  
Inspector