

REPORT TO MINISTER FOR THE ENVIRONMENT

By Graham Self MA MSc FRTPI

Appeal by Mrs Jenna-Marie Oldham née Sangan against a refusal of planning permission.

Reference Number: P/2022/0696.

Site at: Lil Maud House, 14 Byron Road, St Helier, JE2 4LQ.¹

Introduction

1. This appeal is being considered by the written representations procedure. I carried out a site inspection on 7 December 2022.
2. The appeal is against the refusal of planning permission. In the application, the proposed development was described as: "Demolish existing single storey rear bathroom". In the refusal notice, the proposed development was described as:
"Demolish single storey rear bathroom. AMENDED DESCRIPTION: Construct 1 no. three storey extension and 1 no. single storey extension to East elevation. Various external alterations to garden and parking area. Various internal alterations."
3. The grounds for refusing permission were:
 - "1. The proposal, in virtue of its design, loss of historic fabric, absence of justification and lack of information, fails to protect the special interests of what is a Grade 3 Listed Building (Lil Maud House). The proposal also fails to protect the special interests of several nearby Listed Buildings (The Deanery, 87-93 Oxford Road and Windsor Crescent). This is explicitly contrary to policy HE1, of the Adopted Bridging Island Plan 2022, which requires that all developments protect the special interests of Listed Buildings and their settings.
 2. The proposal, in virtue of its design, fails to conserve, protect and contribute positively to the distinctiveness of the existing dwelling and the surrounding built environment, landscape and wider setting. This is explicitly contrary to policy GD6, of the Adopted Bridging Island Plan 2022, which requires that all developments be of high-quality designs." ²

Procedural Matters – Site Inspection

4. In the standard form lodging the appeal, the appellant's agent indicated (by ticking boxes in response to Question 10) that the site was visible from public land and that it was not necessary to arrange for a site inspection. This information suggested that the inspection could be "unaccompanied", ie without the need for the appeal parties to be present. However, I noted that some of the written evidence referred to the interior of the property, and since access inside

¹ This is the address as specified in the application. However, most of the appeal documents specify the property name as "Lil'Maud". In the planning authority's decision notice, the address of the site is specified with a further difference, referring to "14 Lil Maud House, Byron Road"; and one of the documents submitted for the appellant refers to the name of the appeal property as "Lilmaud". From all the available evidence I think the address above is the correct version.

² The phrasing and punctuation in the grounds for refusal are not mine!

the property would not have been feasible as part of an unaccompanied inspection I arranged for an accompanied inspection.

Site and Surroundings

5. The appeal site is located towards the north end of Byron Road, on its east side. The house is a Regency-style property with mostly rendered walls. At the front facing Byron Road there is a low stone wall and railings, a wrought iron gate and path leading to the front door. At the rear there is a vehicular access and parking space.
6. Looked at from the front, the house appears to have two storeys, but from the side and rear the existence of three storeys is apparent, the lowest floor being at a "semi-basement level". The positions of rear-facing windows are as shown on the submitted drawing showing the existing rear elevation. The interior of the house is laid out as shown in the application drawing numbered LM/01.
7. The surrounding area has a mainly residential character, although there are other uses such as dental surgeries nearby. Some of the areas behind frontage buildings are used for car parking; this includes the land to the rear (east) of the appeal site, the access to which off Byron Road is next to the south side of the appeal property.

Case for Appellant

8. The main points put forward on the appellant's behalf are summarised below.
 - The proposal is to provide much needed accommodation for the appellant's large family including eight children.
 - The appellant's architect is at a loss to understand the planning authority's arguments against the proposal. The rear of 14 Byron Road is a considerable distance from, and out of sight from, the listed buildings mentioned by the authority.
 - Existing heritage extensions are a clear precedent for the proposal and three storey extensions to listed buildings are very common in the neighbourhood, including at Windsor Crescent which is higher listed (Grade 2) than the appeal property. Those extensions are visible from the front garden of the appeal property.³
 - The large car park at the rear of the appeal site is not a scenic setting.
 - The proposed extension has been designed at a minimum height; any further reduction would not be feasible.
 - The application took an unreasonably long period of eight months to decide and the applicant will be significantly hindered by further delay. The proposal complies with all areas of planning law and would seem entirely uncontentious.

Case for Planning Authority

9. The planning authority's main comments are, in summary:
 - The Island Plan policies relevant to this application are GD6 and HE1. The proposal fails to meet the criteria in those policies.

³ The Heritage Impact Assessment submitted for the appellant also shows photographs of other extensions in the locality, including the rear of Clarendon Road, the rear of the north side of Rouge Bouillon, and a full-height front extension to a listed Regency dwelling (address not specified).

- Policy HE1 states that proposals are required to satisfy the special interests of Listed sites. The three storey extension and the loss of historic fabric resulting from the layout changes would detrimentally affect the special interest of Lil Maud House and the settings of other listed assets. The application also lacks information about prospective materials and construction methods.
- Policy GD6 refers to the need for development proposals to have regard to existing buildings, settlement form and distinctive characteristics of the place in question. The proposed large, three-storey extension would be a poorly-designed addition to the existing dwelling.
- Historic Environment⁴ objected to the proposal because of its negative effect on the character and setting of the listed building.⁵ There are no exceptional circumstances to justify going against this advice.
- The examples of other developments quoted for the appellant are not directly comparable or were constructed many years ago before current Island Plan policies came into force, or possibly without planning permission. In particular at Windsor Crescent where there are Grade 1 listed buildings, the only recorded planning permission for a three-storey extension (which included change of use to lodging house containing 16 bedsits and a residential unit) was granted at Number 2 in 1992 under a different Island Plan regime.

Representations by Other Parties

10. The written comments on behalf of Strategic Policy, Planning and Performance Historic Environment Team are reported above as part of the planning authority's case. No other third party comments have been made.

Assessment and Conclusions

11. The proposal would involve various internal and external changes to the property, some of which are not the subject of any objection by the planning authority. The main points of dispute relate to the appearance or visual impact of the proposed rear extension and the effect of the proposal on the historic character of the property, having regard to its status as a listed building (Grade 3).
12. As part of the proposal, the existing small rear projection would be enlarged and on the lowest floor towards the north (or right-hand side looking at it from the rear) there would be a new dining space next to a new courtyard. The southern part of the proposed extension (or left-hand side looking at it from the rear) would have three storeys, with three windows (on different floors) facing to the rear (east). Most of the extension would be clearly visible from viewpoints nearby, including parking areas and the block of dwellings at Elmsdale Court. The proposal would in effect create a projection with an L-shaped rear elevation, with two flat roofs at different heights and a large glazed area where the dining space would face the new courtyard. The bulk of the extension would be quite substantial in relation to the existing house, especially when perceived in angled views.

⁴ The planning authority refer to a body named as "Historic Environment" and to a "Historic Environment Section". I understand that this body is currently named "Historic Environment Team" (or HET), and is part of "Strategic Policy, Planning and Performance", which is separate from and not part of what is referred to in the planning authority's statement as the "Planning Department". (At the time of writing this report the Government of Jersey does not have a "Planning Department".)

⁵ A copy of this document is in the case file published online.

13. In assessing this proposal, it is necessary to consider the combination of height and shape, as well as the proportion of glazed area to wall and the size of the extension compared with the existing house. Each of these points on their own might not be a compelling objection, but taken together, I judge that the overall effect would be out of keeping with the building's historic character. The rectangular, flat-roofed shape in particular would not reflect the shape of the house and would look incongruous.
14. As has been mentioned for the appellant, there are a number of flat-roofed rear enlargements in the area around the appeal site, including buildings in Windsor Crescent which have a higher-grade listing than the appeal property. One of the Windsor Crescent buildings has a large, oblong-shaped extension which projects to the side as well as the rear, and at 20 Byron Road there are other flat-roofed projections, though these are two-storey. Not far away there are properties with three-storey flat-roofed extensions, some of which (such as at the corner of Oxford Road and St Mark's Road) are in full public view next to the highway.
15. I can understand why the appellant's agent has argued that a precedent has been set for this proposal. Some of the area's historic character has also been taken away by the presence of parked vehicles and hard surfacing in large rear car parks, the development of which in what were probably originally rear gardens seems likely to have been either permitted by the planning authority in the past, or at least not enforced against.
16. However, the existence of other flat-roofed projections, including those at listed buildings, is not a good reason to permit this proposal. Most of those elsewhere would have been built before the adoption of current planning policies – indeed, in many cases probably before the advent of modern planning controls. The group of properties at Windsor Crescent apparently became listed buildings in 1972 and the only planning permission for extensions there was evidently granted about 30 years ago.
17. I agree with the point argued for the appellant that the car park behind the appeal property does not provide any scenic quality to the setting of Lil Maud House. However, the fact that some of the property's historic and architectural character has already been harmed does not justify allowing it to be further reduced.
18. Policy HE1 of the currently applicable Bridging Island Plan provides that proposals which do not protect a listed building will not be supported unless specified criteria would be met. The other policy quoted by the planning authority – Policy GD6 – sets out some general principles about the quality of design which “will be sought” in new developments; but the specifics of this policy only refer to development which “will be supported”. In my view the criteria in Policy HE 1 would not be met – for example, although the extension and other alterations would clearly provide much-needed additional living space for the appellant's family, the proposal would not be necessary to meet an overriding public policy objective or need. These policies are very generally worded – and lack of support is not the same thing as opposition – but their general thrust is against this proposal.
19. Three aspects of the planning authority's case are in my judgment weak. First, given the layout pattern of streets and buildings in the area, I agree with the argument for the appellant that the proposal would not significantly harm the setting of other listed buildings; or at least, any such harm would not be so material as to justify refusing permission. Second, the planning authority's objection to the removal of part of an internal basement wall is based on

comments by the Historic Environment Team, and their statement that the wall is "assumed to be" historic is an unconvincing basis for this objection. Third, if all other aspects had been satisfactory the opposition to the proposal because of lack of some details about materials and construction methods could probably have been overcome by imposing a "condition precedent" (preventing the start of any development until suitable details had been submitted and approved).

20. The appellant's complaint about the time period between the submission of the application and the decision on it is understandable; but the time taken to decide the application is essentially an administrative matter which does not justify setting aside the planning-related objections to the proposal.

Possible Conditions

21. Neither side in this case has submitted suggestions for the wording of conditions if planning permission were to be granted. I suggest that if you decide to grant permission, the following matters should be subject to conditions:
- i) the standard time limit specifying commencement of the development within three years of the decision date (Standard Condition A).
 - ii) compliance with "plans, drawings, written details and documents which form part of this permission" (Standard Condition B).
 - iii) details of proposed materials and construction methods, using a negatively framed condition so as to make any breach readily enforceable. Suitable wording could be: "The development hereby permitted shall not be begun until details of proposed finishing materials and construction methods have been submitted to the planning authority for its approval and have been approved. The development shall not then be carried out other than in accordance with the approved details."

Recommendation

22. I recommend that the appeal be dismissed and that the decision to refuse planning permission be confirmed.
23. In view of my comments above about the limited effect of the development on listed buildings in the vicinity or their setting, I suggest that it would be appropriate to omit the second sentence of the planning authority's first reason for refusal ("The proposal also fails to protect the special interests of several nearby Listed Buildings (The Deanery, 87-93 Oxford Road and Windsor Crescent)"). I also suggest that the reference to "landscape and wider setting" in the second reason for refusal should be omitted. This is an urban site and whilst the term "built environment" is reasonably apt it seems to me that "landscape and wider setting" has an inaptly rural implication.

G F Self

Inspector

17 December 2022