

## PLANNING AND BUILDING (JERSEY) LAW 2002 (AS AMENDED)

Appeal under Article 108 (2) (d) against a refusal to remove or vary a condition

### Report to the Minister

By Sue Bell MSc., BSc, FCIEEM, CEng, CWEM,  
An Inspector appointed under Article 107

**Appellant:** Mr Andrew Le Maistre

**Planning application reference number:** RC/2024/0600

**Date of decision notice:** 16 August 2024

**Location:** Netheravon, La Rue de la Maitrie, St Saviour, JE2 7HZ

**Description of development:** Remove condition 3 from P/2023/1310 (Notwithstanding the provisions of the Planning and Building (General Development) (Jersey) Order 2011, or any amendment to or replacement of that order, no works involving the erection of a building, extension, structure, or other means of enclosure, conversion of lofts, or the introduction of any hard standing to any ground surface is permitted without the prior written approval of the Chief Officer).

**Appeal procedure and date:** site inspection and written representations.

**Site visit procedure and date:** accompanied 29 October 2024.

**Date of Report:** 20 November 2024

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### Introduction and relevant planning history

1. This is an appeal against refusal to remove a condition from planning permission that has already been granted.
2. The 'parent' permission, P/2023/1310 was granted on 26 February 2024 and granted permission to "construct garage to North-West of Site." Six conditions were appended to the Decision. Condition 3 has been appealed. The wording of the condition is set out in the information above, but in broad terms it removes certain permitted development rights from the property.
3. The application was determined by the Infrastructure and Environment Department (the 'Department') using delegated powers. Two reasons for refusal are listed on the Decision Notice dated 16 August 2024:

"1. Insufficient information has been submitted to justify why Condition 3 of P/2023/1310 should be removed as it is still considered that the prominence and location of the site requires additional controls to safeguard the character and visual amenities of the area and to ensure that adequate private amenity space is retained within the curtilage of the dwelling in accordance with the requirements of policies GD1, GD6, PL5, NE3 and H9 of the Adopted Bridging Island Plan 2022, together with the development

expectations in the Jersey Integrated Landscape and Seascape Character Assessment 2020.

2. The incursion of the proposals, in conjunction with, the cumulative impact of development and erosion of soft landscaping on site would be considered detrimental to the integrity and landscape character of the countryside contrary to the expectations of Policy H9 of the Bridging Island Plan 2022 and the development expectations of Jersey’s Integrated Landscape and Seascape Character Guidance.”

### **The appeal site and proposed development**

4. The appeal site lies to the south of La Rue de la Maitrerie, close to its junction with La Route de Maufant. It is located towards the eastern end of a collection of residential properties close to the road junction. There are fields to the east and south, with other residential properties facing the site to the north and to the west.
5. There is a single storey pitched roof dwelling on the site, with gardens and a gravelled parking area. A previous application, P/2023/1310 granted permission for construction of a double garage in the north-west corner of the site. This appeal concerns removal of condition 3 to that permission.

### **Case for the appellant**

6. The appellant considers that the refusal is an infringement of the property owner’s normal permitted development rights. The residential plot is large with no great planning sensitivities. It is located within the Green Zone, which has the least level of protection of the three countryside zones; the property is not a Listed building, nor is it adjacent to a Listed building. There is no history of cumulative development at Netheravon. The buildings occupy only 27% of the site, which does not represent “the majority of the site.”

### **Case for the Department**

7. The site is within the Green Zone. Condition 3 was appended because it was felt additional controls were required to safeguard the character and visual amenities of the area, owing to the prominence and location of the site and to ensure that adequate private amenity space was retained. Policies PL5 and NE3 state that development must protect or improve the area’s landscape character and Policy GD6 states that a high quality of design will be sought in all developments. The Department also had concerns about the cumulative increase in development of sites in countryside locations, which can have a detrimental impact on the character of the area. The Jersey Integrated Landscape and Seascape Character Assessment July 2023 identifies the area where the site is located as Character Type E - Interior Agricultural Plateau and notes that some recent developments disrupt the characteristic settlement pattern and detract from the rural character.

### **Consultations**

8. **Operational Services - Drainage** (22 July 2024) raised no objections and noted that its comments in relation to P/2023/1310 remained unchanged.
9. The **Environmental Health Department** (24 June 2024) did not object to proposals.

## Representations

10. No representations were received.

## Main Issue

11. The main issue is whether condition 3 is necessary to safeguard the landscape character and visual amenity of the area.

## Inspector's assessment

12. The purpose of the Planning and Building (General Development) (Jersey) Order 2011 ('the Order') is to streamline the planning process by granting permission for certain developments considered to be in accordance with the Island Plan ('permitted developments'). These works are defined in Schedules to the Order. Works to and within the curtilage of a dwelling house are listed in Schedule 1, Part 1 of the Order. There are restrictions on the scope of development that can be undertaken, particularly in areas known to be 'sensitive' - but this does not extend automatically to the green zone, where this proposal is located.
13. Policy PL5 - Countryside, coast and marine environment identifies that development within the green zone should protect or improve landscape character and distinctiveness. Policy NE3 - Landscape and seascape character notes that proposals will need to demonstrate that they will neither directly nor indirectly, singularly or cumulatively, cause harm to Jersey's landscape and seascape character and will protect or improve the distinctive character, quality, and sensitivity of the landscape and seascape character area as identified within the Jersey Integrated Landscape and Seascape Character Assessment (JILSCA).
14. The appeal site is within the Southern Plateau and Ridges Farmland character area of Character Type E - Interior Agricultural Plateau identified by the JILSCA. This is described as visually contained, with a small and intimate feel. Recent housing development is identified as having disrupted the characteristic settlement pattern, particularly where boundary treatments are suburban in character. Also, particular care is needed for new development along roads and at settlement gateways to ensure that rural character is maintained. I accept that the appeal site could be considered part of the settlement gateway for the small collection of dwellings around the junction of La Rue de la Maitrie and La Route de Maufant.
15. The appeal property sits in the eastern part of the plot and extends along most of the site's unsecured boundary with an adjoining field. I saw that although the site benefits from open views to the south, south-west and east/south-east, views of and into the site are limited. There are low banks along the northern boundary of the site with La Rue de la Maitrie, which have a tall, mature hedge on top. This obscures views of the site from the north, other than opposite the vehicle entrance to the site. There is another break in the hedge line along the road further east from the site, but any views from here would be transitory and restricted. Views into the west of the site are obstructed by a tall wall. Views into the south of the site would be possible from the fields and orchards neighbouring the site, but there are no public viewpoints as the closest road to the south and south-west is some distance away and is obscured by landscaping. Consequently, I conclude that the site is viewed as part of a small rural grouping of properties around a road junction; that views of the site are limited; and that it does not appear particularly prominent in the landscape.

16. I have considered the Department's concerns about the quantum of built development and hardstanding within the site and potential increases in this that could arise through permitted development. Whilst I note the photographic evidence showing the transition from soft to hard landscaping and development over time, I do not share the Department's concerns. The plot is large. The appellant assesses the area of the plot to be 1,300 m<sup>2</sup>, of which the house occupies 270 m<sup>2</sup> and the proposed garages a further 84 m<sup>2</sup>. The area of hardstanding has not been quoted. Nevertheless, there are ample areas to provide external amenity to the property.
17. Condition 3 removes only certain elements of permitted development rights. These relate to erection of a building, extension, structure, or other means of enclosure, conversion of lofts or the introduction of any hard standing to any ground surface. Whilst I accept that large-scale development could impact on landscape character, the Order places restrictions on the quantum, height, location, and nature of development that can take place without further permission. This includes limits to the total aggregated external area of any structures or buildings erected and the introduction of a structure in front of a principal elevation. These limits define developments assessed as unlikely to have adverse effects. Given the relatively secluded nature of the site, I am content that the exercise of developments permitted by the Order would not harm landscape character.
18. In refusing the application, the Department has quoted Policy GD1 - Managing the health and wellbeing impact of new development. This seeks to ensure that potential health, wellbeing and wider amenity impacts are considered, particularly in relation to harms to amenities of occupants and neighbouring uses. I am content that the restrictions on development that would be permitted under the Order are sufficient to avoid harm to the amenity of either occupants or neighbouring properties.
19. The Department has also referenced Policies GD6 - Design quality and H9 - Housing outside the built-up area. Policy GD6 seeks to ensure a high quality of design that conserves, protects and contributes positively to the distinctiveness of the built environment, landscape and wider setting. As noted above, I find that removal of condition 3 would not have an adverse effect on landscape quality or the wider setting. In addition, I note that the Department did not identify concerns about compliance with Policy H9 during its consideration of P/2023/1310, nor was it identified as a reason for the addition of condition 3 to that permission. I therefore consider it has little relevance.

### Conclusions

20. For the reasons set out above, I conclude that condition 3 appended to permission P/2023/1310 is not necessary.

### Recommendations

21. I recommend that the appeal should be allowed, and that permission should be granted for the removal of condition 3 to permission P/2023/1310.

*Sue Bell*

Inspector 20 November 2024