

General Information	
Ministerial Decision Type	Deciding of: an Appeal/Case/Application/Public Inquiry
Report Title	Appeal Decision: P/2023/0567 (Field No. T817, La Verte Rue, Trinity)
Minister	Environment
Signatory	Minister
Lead Department	Cabinet Office
Lead Directorate	Housing, Environment and Placemaking
Ministerial Decision Summary: Public or Absolutely/Qualified Exempt	Public Select if more than one Absolutely/Qualified Exemption.
Date decision made if different to date 'Ministerial Decision Summary' signed.	Select date.
Report and Supplemental Report Details	
Report Author	Principal Policy Planner
Date of Report	08/07/2024
Supplementary Report Title <i>(If applicable)</i>	Inspector's Report: (Field No. T817, La Verte Rue, Trinity)
Supplementary Report Author <i>(If applicable)</i>	N McGurk BSc (Hons) MCD MBA MRTPI
Date of Supplementary Report <i>(If applicable)</i>	11/06/2024 Select Date of Supplemental Report.
Ministerial Decision Report: Public or Absolutely/Qualified Exempt	Public Select if more than one Absolutely/Qualified Exemption.
Relevant Case/Application/URN <i>(Only complete if making a decision related to an appeal/case/application)</i>	P/2023/0567
Relevant Proposition Number <i>(Only complete if presenting Comments or if lodging an Amendment)</i>	Insert P. number.
Relevant Scrutiny Report <i>(Only complete if presenting a ministerial response)</i>	Insert S.R. number.
Associated Law(s) and/or Subordinate Legislation	Articles 108 - 111 of the Planning and Building (Jersey) Law 2002

Action required if recommendation agreed	Department to take necessary action.
Resource Implications	There are no new financial and/or manpower implications.

Introduction

Following an appeal against the approval of planning permission, reference P/2023/0567, Nigel McGurk was appointed as the Independent Planning Inspector to consider the appeal and all statements and other plans and documents associated with the appeal.

The Inspector visited the site and surroundings before holding a hearing and preparing and submitting a report for the Minister's consideration.

Decision

To dismiss the appeal, contrary to the Planning Inspector's recommendation, and to maintain the original decision to refuse planning permission, reference P/2023/0567 subject to variation as outlined in the accompanying Schedule of Reasons for Refusal.

Reason for decision

The Minister for Environment acknowledged the comprehensive assessment of the Inspector and agreed that the principle of erecting a single dwellinghouse on the site is reasonable from a strategic planning policy standpoint. However, the Minister did not accept the Inspector's assessment at paragraph 42 of his report that "*...there would be no harm to the character and appearance of the area...*". The Minister also did not accept the Inspector's assessment at paragraph 57 that "*...that the proposed development would not result in unreasonable harm to the living conditions of neighbouring occupiers...*".

In coming to his conclusion, the Minister noted that the wider context of Trinity Village is characterised by traditional, often listed, buildings of a primarily Victorian vernacular. The exceptions to this are the Les Maisons Cabot development, directly to the west of the application site, in which the architecture is a very simple mid-20th century style of low-rise modest bungalows with conventional facades and, the more recent Le Grand Clos development to the north side of La Rue es Picots which is characterised by two-storey faux-Georgian dwellings with a traditional pattern of doors and fenestration.

The Minister noted the Inspector's comments at paragraph 35 that "*...the proposal seeks to combine local traditional materials with modern materials in a manner that would...result in a strikingly attractive modern dwelling that would respect its surrounding heritage*" and at paragraph 41 that the proposed development "*...would result in a more satisfactory visual experience than that currently provided by this site...*".

However, the Minister also noted that one of the key principles of Bridging Island Plan Policy GD6 – Design quality – is that design should successfully address "*...1. the relationship of the development to existing buildings, settlement form and distinctive characteristics of a place having regard to the layout, form and scale (height, massing, density) of the development*". This principle is further reinforced by Policy PL3 – Local centres, which makes clear that any new development in local centres (of which Trinity Village is one) needs to be, amongst other things, appropriate to its context in scale, character and use. The Minister considered that the use of the site for residential occupation is appropriate to the site's context but that scale and character of the proposed development was not appropriate for reasons expanded upon below.

The Minister also accepted that opinions on matters of design and context are, to some degree, subjective and that it is the decision-maker's role to carefully balance the planning merits of a development proposal with the policy requirements of the Plan.

In this instance, the professional opinion of the Inspector was noted by the Minister but, having considered the proposed architecture and form of the proposed development in relation to the adjacent developments and to the wider settlement of Trinity Village, he did not agree with the Inspector that the proposed development would successfully address those relationships. In particular, the Minister considered that the two-storey gable feature, large split-eaves dormer window and overall extent of glazing on the southern elevation of the proposed dwelling did not exhibit sufficient reference to the vernacular or character of the local area where such features are not commonplace, nor are they expected.

Accordingly, the Minister considered that the development proposal was contrary to Policy GD6 – Design quality, which seeks to ensure that all new developments are of a high quality of design that conserves, protects and contributes positively to the distinctiveness of the built environment, landscape and wider setting. For similar reasoning, the Minister considered that the development proposal was contrary to Policy PL3 – Local centres, which seeks to ensure that any new development within a local centre has regard to the character of the area and its capacity to accommodate more dense forms of development.

In respect of the potential impact upon the amenities of neighbouring residents, the Minister noted the assessment of the Inspector at paragraph 57 of his report that “...*the proposed development would not result in unreasonable harm to the living conditions of neighbouring occupiers with regards to outlook and daylight...the proposed development would not be contrary to Island Plan Policies GD1 or H1*”. The Minister accepted that the proposal would not be in conflict with Policy H1 – Housing quality and design, which seeks to ensure that all new housing provides good quality accommodation.

However, the Minister did not accept the Inspector's assessment that the proposed development would not be contrary to Island Plan Policy GD1 - Managing the health and wellbeing impact of new development, which seeks to ensure that new development does not adversely affect people's health and wellbeing or have wider amenity effects that erode community wellbeing.

The Minister considered that whilst some impacts on neighbour amenity are tangible and quantifiable, others are less easy to measure. The perceived sense of overbearing resulting from a proposed structure in close proximity to a neighbour's windows or garden area and loss of privacy, through the presence of windows or other large, glazed areas can have a significant impact on a person's amenity.

In this regard, the Minister shared the Inspector's observation at paragraph 44 of his report that “*The western edge of the proposed dwelling would be situated in very close proximity to the rear of number 10 Les Maisons Cabot*”. He also noted the Inspector's observations at paragraph 47 that “...*that the rear elevation of this part of Les Maison Cabots does not currently provide for a significant or attractive outlook...*”.

However, the Minister considered that the construction of a relatively large dwellinghouse in such close proximity to, and directly to the rear of, the garden area and windows of number 10 Les Maisons Cabot would not serve to maintain or improve the existing outlook from the property – instead, in the Minister's view, it would result in a sense of overbearing enclosure and a perceived loss of privacy for occupiers of the property as a result of the proximity of the proposed new dwelling and its side and rear garden / circulation areas. Such impacts

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upon the amenities of the neighbour would, in the opinion of the Minister, be unreasonable and accordingly not in accord with Policy GD1 of the Island Plan.

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