

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

Appeal under Article 108 (2) (a) against a decision to grant planning permission

### Report to the Minister

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

**Appellant:** Lindsey Carter

**Planning Permission Reference Number:** P/2024/0216

**Decision notice date:** 30 April 2024

**Location:** Captain's Cabin, 23 Beaulieu Park, St Helier, JE2 4RN

**Description of development:** Construct single storey extension to North Elevation.

**Appeal procedure and date:** hearing, 30 July 2024

**Site visit procedure and date:** accompanied, 30 July 2024

**Date of report:** 19 August 2024

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### Introduction

1. This is a third-party appeal by Lindsey Carter against a decision to grant planning permission for works to 23 Beaulieu Park, St Helier.
2. Permission was granted by the Infrastructure and Environment Department using delegated powers on 30 April 2024.
3. A summary of the cases presented by each party during the application and the appeal are presented below. Further details are available in the statements and other documents submitted by each party, which are available through the Planning Applications Register website.

### The appeal site, planning history and proposed development

4. The appeal site is a semi-detached property in a residential area. The rear elevation faces north and has an existing single-storey extension along the eastern part. The proposal would extend this along the full width of the northern elevation but would be set back slightly from the property boundary. It would have a pitched roof with tiles matching the existing. It would be finished with painted render.
5. There is a parking space to the north of the building, which would remain and beyond this there is an area of amenity space, which is set at a lower level than the house.

### Case for the appellant

6. The appellant considers that the pitched roof design would result in loss of light and create a sense of over-bearing to her property, which lies to the west and relies on

light through a skylight in the flat roof. The appellant does not believe that these effects were assessed during consideration of the application. The appellant's application for a similar pitched roof extension was refused owing to its imposing nature and effects on light to the neighbouring property.

#### **Case for Infrastructure and Environment Department ('the Department')**

7. The principle of an extension within the built-up area is acceptable. The effects of the proposal on neighbouring properties were considered in line with the requirements of Policy GD1 of the Island Plan. Based on the limited height and size/siting of the proposed extension, the Department did not consider that it would result in any unreasonable harm in terms of loss of light or overbearing impacts. In reaching this decision, the Department took account of the presence of tri-fold doors along the extension in the neighbouring property. There would be no increased overlooking from the two proposed rooflights.
8. The Department considered the planning application history of the appeal site and the neighbouring property. A site visit was undertaken, which enabled the planning case officer to view the interrelationship between the properties. The context of the site has changed following the appellant's approved flat-roof extension.

#### **Case for the Applicant**

9. The proposed roof extension would be c. 700mm higher than the flat roof structure of the neighbouring property. The marginal difference in height means there will be no loss of light. Also, the extension is to the east of the flat roof structure so would not result in any tangible effects on light.
10. There has been a change in the relationship between Nos 23 and 24 because of construction of the flat-roof extension to No 24. The refused application would have been located to the west of No 23, which combined with its height was considered to result in effects on light. In addition, the mass of the building would have been experienced against open space to create a sense of overbearing by reason of its height. By contrast, the current proposal lies to the east of the neighbouring property and the mass of the extension would abut the existing flat-roof extension subsequently built at No 24.

#### **Consultation responses**

11. None received.

#### **Representations**

12. A single representation was received from the appellant, which raised similar points to those expressed in the grounds of appeal.

#### **Key Issues**

13. Article 19 (1) of the Planning and Building (Jersey) Law 2002 as amended notes that all material considerations shall be taken into account when determining an application for planning permission. Paragraph (2) of the same article states "In general planning permission shall be granted if the development proposed in the application is in accordance with the Island Plan." The current Island Plan is the Bridging Island Plan, dated March 2022 ('Island Plan').

14. Having regard to the provisions of the Island Plan and other material considerations, I consider that the key issues in this appeal relate to:
  - the design of the roof and its effect on neighbouring amenity.
15. I also consider the appellant to question the consistency of decision-making.

#### The design of the roof and its effect on neighbouring amenity

16. Policy GD1 - managing the health and wellbeing impact of new development, protects neighbouring amenity. It requires that development will not unreasonably harm the amenities of occupants and neighbouring uses, including those of nearby residents. It should not create a sense of overbearing or oppressive enclosure; or unreasonably affect the level of privacy to buildings and land that owners and occupiers might expect to enjoy.
17. The proposed extension would continue the existing building line to 'infill' the area between the applicant's existing extension and that of the appellant. Thus, the mass would sit against an existing structure. The proposed extension would be no higher at the front (north) than the neighbouring extension. It would rise to 700mm taller than the neighbouring extension where it meets the wall of the host building to the rear (south). Consequently, I do not consider that this relationship would result in any sense of over-bearing of the appellant's property.
18. My site inspection was undertaken on a sunny summer's day at a time when sunlight would be anticipated from the east - south-east. I saw that the appellant's garden receives minimal direct sunlight owing to the orientation of the property, difference in ground levels and presence of boundary walls and vegetation. Given the position, height and depth of the proposed extension I conclude that any effects on sunlight would be marginal at worst and would certainly fall below the threshold of unreasonable effects set out in Policy GD1.
19. Having considered the height of the proposed extension and the distance between it and the skylight in the neighbouring flat roof, I conclude that there would not be any appreciable effects on light levels into the neighbouring property.
20. I have also considered the potential for over-looking from the proposed roof lights. The difference in ground levels between the properties together with the existing boundary features, prevent overlooking of the neighbouring property from ground level. The position, height and orientation of the proposed rooflights is such that I do not consider they would result in any additional overlooking than is already possible from the windows on the upper floor of the respective properties. I therefore conclude that the proposals would not unreasonably harm the amenities of occupants and neighbouring uses through creation of a sense of overbearing; or through unreasonably affecting the level of privacy, level of sunlight or daylight to buildings and land that owners and occupiers might expect to enjoy.

#### The consistency of decision-making

21. I can see no evidence to support the appellant's view that effects on her property were not considered as part of the application. The planning officer's assessment report clearly addressed the effects of the proposal on neighbouring amenity and refers to the concerns raised by the appellant in her representation.

22. Each application must be considered on its own merits, having regard to the extent to which it accords with the Island Plan and other material matters. This includes consideration of the context of the proposal. Thus, the acceptability of two apparently similar proposals may differ, depending on their context and relationships between buildings.
23. The context for the current proposal is different to that of the appellant's development. The Department has highlighted these differences which include the different orientation of buildings and the granting of the appellant's application for an extension. Whilst I am unable to comment on the process used in reaching the decision on the appellant's previous applications, I am content that consideration of the appealed application has taken account of all relevant matters.

#### **Other matters**

24. The principal of an extension within the built-up area is consistent with the spatial strategy of the Island Plan (Policy SP2).
25. The appellant is concerned that the proposed pitched-roof would be inconsistent with the adjoining flat-roof extension. I accept that there would be a difference in roof styles. However, the proposed extension would be of a similar height and width to that of the adjoining property. The proposed materials and finishes would be consistent with those of the host building. For the reasons set out above, I have concluded that the relationship with existing buildings is acceptable and that there would be no unreasonable impacts on neighbouring uses. I therefore conclude that the proposal would be consistent with the requirements of Policy GD6 - design quality.

#### **Conditions**

26. The Decision Notice for the proposed scheme did not require any further conditions other than the two standard conditions relating to the commencement of the development and the carrying out of the development in accordance with the approved details. There are no further matters that I consider require to be controlled through condition.

#### **Conclusions**

27. For the reasons set out above, I conclude that the proposals accord overall with the relevant provisions of the Island Plan and that there are no material considerations which would still justify refusing to grant planning permission. I have considered all other matters raised, but there are none which would lead me to alter my conclusions.

#### **Recommendations**

28. I recommend that the appeal should be dismissed and that Planning Permission be granted.

*Sue Bell*

Inspector 19 August 2024