

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

Appellants:

John and Ann Young

Planning permission reference number and date:

P/2023/1289 dated 11 April 2024

Applicants for planning permission:

Constantia Ltd.

Site address:

Constantia, La Grande Route de St Jean, Trinity JE3 5FN

Description of development:

“Demolish existing dwelling and garage, construct 2no. 3 bedroom and 4no. 4 bedroom houses. Various external alterations including relocation of vehicle entrance, widening pavements and a new pavement to the south.”

Inspector’s site visit date:

9 September 2024

Hearing date:

10 September 2024

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 and Environment Department.
2. The application led to forty-five public representations (thirty-two objections and thirteen in support). The Committee decided that on balance the

development was acceptable when the Bridging Island Plan was “considered in the round”.

3. The permission was granted subject to the standard conditions relating to the commencement of the development and compliance with the approved details and to the following additional conditions: -

“1. The mitigation and enhancement measures outlined in the approved Bat Survey Results Report (ref. NE/ES/C.02, 18th October 2023, Nurture Ecology) shall be implemented prior to commencement of the development, continued throughout (where applicable) and thereafter retained and maintained as such. Any variations that may be required as a result of findings on site are to be agreed in writing by the Land Resource Management Team prior to works being undertaken.

2. Prior to the commencement of development, details shall be submitted to, and agreed in writing by, the Chief Officer of Regulation, which demonstrate that the new development hereby approved will exceed Building Byelaw requirements, in terms of energy efficient homes, by 20%. Thereafter, the agreed details shall be implemented in full, and retained as such.

3. No part of the development hereby approved shall be occupied until all hard and soft landscape works, as indicated on the approved plan, have been carried out in full. Following completion, the landscaping areas shall, thereafter, be maintained as such.

4. The approved Percentage for Art work must be installed prior to the first use / occupation of any part of the development hereby approved.”

4. The reasons given for the conditions were: -

“1. To ensure the protection and improvement of biodiversity in accordance with the natural environment policies of the Bridging Island Plan 2022- 2025.

2. To accord with Policy ME1 of the Bridging Island Plan 2022-2025.

3. To ensure that the benefits of the approved landscaping scheme are carried out and completed, making a positive contribution to the amenities of the site in accordance with Policies SP3, SP4 and GD6 of the Bridging Island Plan 2022-2025.

4. To accord with the provisions of Policy GD8 of the Bridging Island Plan 2022-2025.”

Description of the site and its surroundings and the development

5. Constantia is an extended 1930s detached bungalow, which occupies a large plot at the junction of La Grande Route de St Jean and La Rue de Becquet Vincent. It is in a cluster of residential properties which are in the built-up area centred on Sion Village. Next to it on its northern side is the appellants' house, Myrune, a two-storey dwelling which fronts La Grande Route de St Jean but has side windows facing the bungalow. There are houses on the opposite side of La Grande Route de St Jean. Allandale Court, a large residential courtyard development, adjoins Constantia's garden area on La Rue de Becquet Vincent.

6. It has been accepted for the purposes of Policy GD5 of the Bridging Island Plan that it is not economically viable to repair or refurbish Constantia and that the development will be a more sustainable use of the site.
7. The development will consist of six two-storey houses grouped around a central area (two four-bedroom detached, two four-bedroom semi-detached and two three-bedroom semi-detached). The four-bedroom houses will have integral garages. Parking spaces for residents and visitors will be provided. Electric vehicle charging points will be installed. Green space and a play area will be provided.
8. The vehicular access will be from La Rue de Becquet Vincent, where a new pavement will be provided. The two existing vehicular accesses to Constantia from La Grande Route de St Jean will be closed. Pavement widening will take place on La Grande Route de St Jean, where there will be an additional pedestrian access to the development.

The main issues

9. The Bridging Island Plan is supportive of the development, in principle. Policy SP2 (Spatial strategy) states that the appropriate development of previously-developed land and of under-utilised land and buildings will be supported and, in particular, development which makes the most efficient use of land and which optimises the density of development will be encouraged. Policies PL3 (Local centres) and H3 (Provision of homes) indicate that residential development proposals will be supported in the built-up areas of local centres.
10. The hearing focussed on the four grounds of appeal brought by the appellants. These are that: (1) the development will unreasonably harm the amenities of nearby residents and be detrimental their wellbeing, contrary to Policy GD1 (Managing the health and wellbeing impact of new development); (2) the design, quantum, scale and siting of the development will fail to respond to the context and fail to maintain the character of the place, contrary to Policies SP3 (Placemaking), GD6 (Design quality) and H1 (Housing quality and design); (3) the development will fail to provide good quality accommodation, contrary to Policy H1 (Housing quality and design) and the supplementary planning guidance *Residential space standards* adopted in October 2023; and (4) the development will increase the scope for conflicts on the highway, thereby failing to meet the standards called for by Policy TT1 (Integrated safe and inclusive travel).
11. I have set out each of these grounds of appeal in more detail below, together with the applicants' and the Department's responses and my conclusions on each of them.

The amenities and wellbeing of nearby residents

12. Policy GD1 indicates that development proposals will not be supported if they unreasonably harm nearby residents' amenities, in particular by creating a sense of overbearing or oppressive enclosure or unreasonably affecting the level of sunlight and daylight that neighbours might expect to enjoy. The appellants consider that Unit 6, the nearest house to their house, will create an overbearing and oppressive enclosure because of its siting, height and proximity and that Unit 6 together with Unit 5, a house that will be beyond Unit 6 but further forward, will have an unreasonable effect on the level of

sunlight and daylight enjoyed in their lounge and study. I do not consider that the residential amenities of any other neighbours would be adversely affected.

13. The applicants maintain that the relationship between Unit 6 and Myrune will be a conventional gable-to-gable relationship that will not be overbearing or oppressive. They state that the Daylight and Sunlight Assessment submitted with the application shows that the only windows that will be adversely affected are either secondary side-facing windows serving rooms that have a larger unaffected source of light or a large window serving a relatively small room. They maintain that this will not unreasonably affect the level of sunlight and daylight that the appellants might expect to enjoy. The Department agree with the applicants on these matters.
14. The two-storey stepped side wall of Myrune and the single-storey side wall of the bungalow are about 6m apart at the nearest point and about 8m apart at the furthest point. Myrune is slightly further forward than the bungalow and has side windows at both ground and first-floor levels. The distances between Myrune's side wall and the blank side wall of Unit 6 will be about the same as the present distances from the bungalow. Unit 6 will however be two storeys high and will extend about 3m further forward than the bungalow (although it will extend about 3m less at the rear). Unit 5 will extend about a further 4m further forward than Unit 6, but there will be a gap of some 22m between it and Myrune.
15. In these circumstances the appellants will experience a loss of outlook from their side windows and, has been accepted by the applicants and the Department, some loss of light at these windows. They will also lose the long range views to the south that they presently enjoy over the bungalow from their first-floor side windows. Loss of outlook and loss of views are not concerns that are specifically referred to in Policy GD1 and would not normally be reasons for refusal unless a sense of overbearing or oppressive enclosure would arise. I agree that this will not occur in this instance, since a conventional gable-to-gable relationship will be established with a substantial separation distance. I also agree that there will not be an unreasonable effect on the level of sunlight and daylight that the appellants might expect to enjoy, given that the affected rooms will still enjoy adequate light and that the effect of two-storey new development on side windows this distance away would not usually be a decisive planning issue, because it would be a severe impediment to the otherwise acceptable development or re-development of adjoining land.

Context and character

16. The appellants maintain that the development will fail to comply with Policies SP3, GD6 and H1 because (a) Units 5 and 6 will be forward of the established building line on this side of La Grande Route de St Jean, (b) Unit 6 will have its rear elevation facing La Grande Route de St Jean and (c) the replacement of the bungalow by two-storey pitched-roofed houses at the 'gateway' to Sion Village will dominate the street scene and be out of keeping with the rural setting to the south.
17. The applicants point to the mixture of housing styles and settings in the immediate locality. They maintain that the building line formed by Myrune and the other houses on this side of the road is not the predominant layout in the area, with many buildings having gables facing the road or being set back to the rear of other buildings; Unit 6 is well-designed throughout; and the

development will reinforce the sense of place and the 'gateway' concept. The Department consider the scale and design of the development to be in keeping with the character of the area.

18. Policies SP3 and GD6 indicate that new development will be supported where it is responsive to its context, in order to ensure the maintenance and enhancement of identity, character and the sense of place, and that it will be supported where it can be demonstrated that the design successfully addresses key principles, which include the settlement form and the distinctive characteristics of the place. Policy H1 is more relevant to the detailed quality and design issues dealt with under the appellants' ground (3).
19. Constantia is an exception to the distinctive characteristic of this locality, which is two-storey housing development of various types and designs in a settlement form with a varied layout. The replacement of Constantia by the development will obviously alter the appearance of the site; perceptions will vary, but in my opinion the development will respond satisfactorily to its context and its design will successfully address the settlement form and the distinctive characteristics of the locality.

Quality of accommodation

20. The appellants draw attention to the fact that the main gardens of each of Units 4, 5 and 6 will be between the unit and the road, which they state will make them exposed to public view and traffic noise and make them less secure than they need to be for family use. The appellants also maintain that the garden of Unit 5 will be too small. Overall, they state that the amount of development approved for the site is too great and results in the green amenity space being peripheral. These drawbacks, they maintain, show that the development will be contrary to Policy H1 and the *Residential space standards* guidance.
21. Policy H1 indicates that the development should provide good quality accommodation and that it will only be supported where, amongst other criteria, it provides private amenity space which meets or exceeds adopted standards and minimises exposure to noise. The appellants have drawn attention to the following advice in paragraph 4.2.3 of the *Residential space standards* guidance:

"The provision of open space for houses should provide sufficient private space for relaxing outside, socialising with family and friends, secure children's play and clothes drying.

To enable this all houses should be provided with enclosed private gardens which are protected from public view with ground level access. In general, this is best achieved where they are behind the building line.

Front gardens will not normally be considered as contributing to minimum private space requirements for houses on account of the lack of privacy and limitations of use.

Private open space for houses should be of sufficient size and utility to meet the needs of the potential number of occupants."

22. In response, the applicants stress that the development will meet all the residential space standards in relation to unit size, private amenity space and green amenity space, both qualitatively and quantitatively. The development has been designed as a courtyard development with all the houses grouped around a central area. This will result in the rear gardens of Units 4, 5 and 6 bordering the highway, whereas the guidance suggests it would be best if they were behind the highway building line. However, the rear gardens will be enclosed behind granite walls and hedging to maintain their privacy, amenity and security.
23. The applicants draw attention to other policies in the Plan. I have already referred in paragraph 9 to the support given to the development in principle by Policies SP2, PL3 and H3. Policy H2 (Housing density) states that residential development will be supported where it meets or exceeds the adopted minimum residential density standards established for built-up areas. These standards were adopted in July 2023 in the supplementary planning guidance *Density Standards*. The development will slightly exceed the minimum standard for local centres and therefore comply with Policy H2.
24. The Department concur that the development will achieve or exceed the standards set out in the supplementary planning guidance *Residential Space Standards* and *Density Standards*.
25. I have concluded on this ground of appeal that the development will comply with the Plan's policies and the supplementary planning guidance.

Highway considerations

26. The appellants raise concerns about the standard of visibility for drivers exiting Myrune. They accept that it is limited at present but are unsure how it will be affected by the boundary proposals for Unit 6. The applicants have since confirmed that the boundary line will be chamfered as shown on the approved plans to provide the required visibility splay.
27. Members of the public as well as the appellants have raised concerns about the additional traffic the development will generate and the frequency of accidents at the crossroads formed by La Grande Route de St Jean, La Rue de Becquet Vincent and La Ruelle Pinel.
28. La Grande Route de St Jean is part of the strategic network managed by the Department's Transport section. There have been no reports of relevant recent road traffic casualties here. The Transport section state that the highway measures included in the development will result in improvements to road safety and benefits for pedestrians. The Parish, who are responsible for La Rue de Becquet Vincent, are satisfied with the location of the vehicular access to the development. Neither authority has raised any concerns about additional traffic generated by the development.
29. I am satisfied that the development will meet the standards called for by Policy TT1.

Inspector's overall conclusion, planning conditions and recommendations

30. As I have recorded above, there are several policies in the Bridging Island Plan that support the planning permission granted for this development in

principle. When the details of the development are thoroughly examined, there are insufficient reasons to reach a different conclusion. I therefore recommend that the appeal is dismissed.

31. I also recommend that the planning permission is varied by adding the two additional conditions set out below. The first is required in order to protect the amenities of nearby residents during the carrying out of the development, pursuant to Policy GD1 of the Bridging Island Plan, and the second is needed to ensure that the pavement works are completed at the appropriate time, pursuant to Policy TT1 of the Bridging Island Plan.

“5. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Chief Officer. The Statement shall provide for (1) delivery, demolition and construction working hours and (2) measures to control the emission of dust during works of demolition and construction. The approved Statement shall be adhered to throughout the carrying out of the development.

6. The pavement works shown on the approved plans shall be completed in accordance with the approved plans prior to the first residential occupation of any of the units.”

Dated 30 September 2024

D.A.Hainsworth
Inspector