

REPORT TO MINISTER FOR PLANNING AND ENVIRONMENT

by **N McGurk** BSc (Hons) MCD MBA MRTPI,
an Inspector appointed by the Judicial Greffe

Site visit made on 27 August 2024. Hearing held on 28 August 2024.

Reference: P/2023/0843

Field S409, La Rue des Friquettes, St Saviour, JE1 1AA

- The appeal is made under Article 108 and 110 of Planning and Building (Jersey) Law 2002 (as amended) against the granting of permission to develop land.
 - The appeal is made by Tara Lightbourne against the decision of the States of Jersey. The appellant lives within 50 metres of the appeal site.
 - The application Ref P/2023/0843 by Alison Kemp was refused by notice dated 11 April 2024.
 - The proposed development is Retrospective: Repositioned access to Field No S409. (*Decision Notice description: "Construct perimeter wall as well as retrospective repositioning of existing vehicular access (amended description)".*)
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Recommendation

1. I recommend that the appeal be dismissed and that the original planning permission be upheld, subject to conditions.

Introduction and Procedural Matters

2. The description of the proposed development on the application form and decision notice refers to it being retrospective. However, during my site visit I observed that the proposal the subject of this appeal has not been completed. Consequently, I refer to the "*proposed development*" below, rather than to "*the development*".
 3. The planning application the subject of this appeal relates to the formation of an access to the appeal site from La Rue des Friquettes. Whilst at the time of my site visit, the proposed development was not complete, I observed that an access was in place from La Rue des Friquettes to a vehicular track running parallel to the road through the field forming the appeal site, enabling vehicles to drive to land adjacent to the appeal site, part of which was occupied by tents, parked vehicles and a storage area.
 4. During the public hearing held as part of this appeal, neighbours raised concerns about the connection between the proposed development the subject of this appeal and the use of this adjacent land.
 5. In this regard, I note that the adjacent land does not fall within the appeal site and there is no evidence before me to demonstrate that the use of the adjacent land is inappropriate, or that it is the subject of any enforcement action. Further, the Department has not indicated any concerns with regards the information provided as part of the planning application the subject of this appeal.
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6. Maison de Derriere, opposite the appeal site, is a Grade 3 Listed Building. The Department is satisfied that the proposed development would conserve and not result in any harm to the heritage asset and that it would protect local character.
7. This Report refers to the Planning Department as "*the Department.*"
8. The Bridging Island Plan, adopted on the 25th March 2022, is referred to in this Report as "*the Island Plan.*"
9. The summaries of the various cases set out below are neither exhaustive nor verbatim but briefly summarise main points made by the relevant parties. In reaching the recommendation set out in this Report, I have considered all of the information before me, including evidence presented at the public hearing.

Case for the Appellant

10. The proposed development fails to satisfy parking standards as it prevents vehicles from parking off-road at Maison de Derriere. It will result in the need for ad hoc parking further afield and without a pavement or streetlighting, the journey to Maison de Derriere cannot be undertaken safely.
11. The proposed development increases the scope for conflicts on the public highway and does not provide for safe and inclusive travel. The proposed development would prevent an ambulance or large vehicles adapted for driver/passenger needs from entering Maison de Derriere.
12. The proposed development would prevent drivers from using part of the field opposite Maison de Derriere to help enter and exit that property's courtyard parking area, via a small granite archway. This makes it difficult for all but small vehicles to park at Maison de Derriere and adds to safety concerns.
13. The proposed development will compromise the function of La Rue des Friquettes, as vehicles attempt to manoeuvre around the entrance to Maison de Derriere and has implications for the safety of school age children, noting the adjacent location of St Michael's School.

Case for the Applicant

14. The proposal is for a repositioned access and a low granite wall and has no impact on Maison de Derriere.
15. There is no legal obligation for the property the subject of this appeal to maintain or assist with access to Maison de Derriere. Maison de Derriere has restricted access and visibility for vehicles.
16. The proposed development provides for clear visibility in both directions and a straight route to the field, providing for improved access. Together with the proposed wall, it will enhance the character of the road and its surroundings.
17. The proposed development will define land ownership and prevent ground from the field spilling onto the road.

Case for the Department

18. The parking provision on site would remain unchanged. The proposed changes are to the field's vehicular access and include the construction of the perimeter wall.
19. The proposal provides for an acceptable development. It improves the on-site turning radius on approach from a southerly direction and improves visibility when exiting the site.
20. Highway safety was taken into account in consideration of the proposal.
21. Constraints regarding the entrance to Maison de Derriere are existing conditions and have not occurred as a result of the proposal. The planning process does not serve as a route to arbitrate third party disputes or access arrangements. Planning permission does not nullify legal limitations or statutes.
22. The fact that neighbouring residents have previously used the privately-owned appeal site for the manoeuvring of vehicles is not a material planning consideration.

Other Comments

23. Late representations were received from Thomas Fallon.
24. These stated that the proposed development provides access to a business use and should have been considered as such; and that planning permission should be held in abeyance until there has been an investigation into the extent of the parish road.
25. I note that this Report makes a recommendation on the basis of the planning application the subject of this appeal which was accepted and determined by the Department; and that there is no substantive evidence before me that leads me to conclude that the Minister should delay making a decision until further information is received.

Main Issue

26. The main issue in this case is the effect of the proposed development on highway safety.

Reasons

27. The appeal site comprises a field located to the west of La Rue des Friquettes, to the north of that road's junction with La Rue de la Hougette, beyond St Michael's School sports hall and courts.
28. The appeal site is located in the Green Zone. During my site visit I observed that whilst the majority of the field appears as an open flat field, an area close to the entrance appeared to be being used as storage area for vehicles and machinery and as noted earlier in this Report, a vehicular track runs through the field, parallel to La Rue des Friquettes to provide access to adjacent land.
29. The surrounding area is largely rural, comprising agricultural fields. St Michael's School's sports facilities border part of the southern end of the appeal site and

there is housing along the opposite side of La Rue des Friquettes to the appeal site.

30. This nearby housing includes Maison de Derriere, which is located opposite the appeal site, close to the location of the proposed development.
31. La Rue des Friquettes in this location is a country lane. Whilst generally wide enough for two vehicles to pass one another with room to spare, there are no streetlights and no pavements. Maison de Derriere is a Grade 3 Listed Building split into residential units. It immediately fronts La Rue des Friquettes and set within this frontage, there is a small, narrow, low granite archway, with a floor of accommodation set into a roof above.
32. The granite archway provides a significantly constrained vehicular access to courtyard parking beyond. The constrained nature of the access via the archway means that it is difficult for cars to enter and to leave the courtyard without manoeuvring around and across La Rue des Friquettes.
33. Whilst I note that land within the appeal site, across from La Rue des Friquettes, has served to help with such manoeuvring, it is evident that even with this additional land, manoeuvring across the highway would still be required. Whilst it provides some scope for vehicles to squeeze into La Rue des Friquettes' courtyard, the archway does not comprise a safe, convenient access that meets today's standards.
34. Notwithstanding this, the proposed development the subject of this appeal is intended to provide access to the opposite side of La Rue des Friquettes. It is not intended to help vehicular access into La Rue des Friquettes.
35. There is no requirement for the proposed development, or for the appeal site, to mitigate the constraints associated with vehicular access to and from Maison de Derriere.
36. The proposed development would provide for safe and enhanced access and egress between Field S409 and La Rue des Friquettes. It would provide for enhanced visibility for vehicles exiting the site. This would constitute an improvement to highway safety.
37. There is no evidence before me to demonstrate that the proposal would not provide a safe and improved access to and egress from, Field S409, as is the purpose of the proposed development.
38. Consequently, I find that the proposed development would provide for a safe and improved access to the appeal site and that it would not result in harm to highway safety. It would accord with Island Plan Policy TT1 ("*Integrated safe and inclusive travel*"), which supports safe, accessible development.

Conditions

39. The two standard planning conditions normally imposed by the Department, require development to commence within three years of the decision date and require development to be carried out in accordance with approved plans.
40. I refer earlier in this Report to the "*retrospective*" title afforded to the planning application the subject of this appeal. Whilst I note that the proposed

development has not been completed, construction activity has taken place and this has resulted in unfinished works that detract from the appearance of the appeal site and the surrounding area, including the setting of Maison de Derriere, a Grade 3 Listed building.

41. Given this and further to discussion at the public hearing, I recommend that a condition is imposed requiring development to commence within 12 months, rather than 3 years.
42. There was also some discussion at the public hearing around the difference between commencement and completion. In this regard I note that amongst other things, planning conditions need to be enforceable and reasonable and consequently, they impose development commencement rather than development completion requirements. Further, I note that where excessively delayed, incomplete development may result in an eyesore and/or harms heritage assets, alternative options are available to remedy the situation.

Other Matters

43. I am mindful that residents of Maison de Derriere would consider it helpful and neighbourly if a small area of land within the appeal site were made available to help vehicular access to and from Maison de Derriere, noting the significant constraints associated with that access.
44. However, this is a private matter between the residents of Maison de Derriere and the landowner. As explained by the Department, the planning system is not a route to arbitrate private access issues.

Conclusion

45. For the reasons set out above, I recommend to the Minister that the appeal be dismissed and that the Department's decision to grant planning permission be upheld.

Nigel McGurk BSC(HONS) MCD MBA MRTPI
PLANNING INSPECTOR