

PLANNING AND BUILDING (JERSEY) LAW 2002

Appeal under Article 108 against a decision made under Article 19 to refuse 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

Appellant:

Christan Fosse

Application reference number and date:

P/2023/0853 dated 5 September 2023

Decision Notice date:

25 April 2024

Site address:

Les Ruettes (house) and Les Ruettes Cottage at Les Ruettes, St. Martin JE3 6EH

Development proposed:

"Demolish existing dwellings. Construct 2no. 4 bed dwellings. Various landscape enhancements and remodelled access."

Inspector's site visit date:

9 September 2024

Hearing date:

11 September 2024

Introduction

1. This is an appeal against the decision of the Chief Officer to refuse planning permission for the development described above. The reasons given for the decision are: -

"1. The proposed scale, mass, position and orientation of the development will result in a development that has an unacceptable visual impact and does not protect or improve the landscape character of the area, contrary to Policies SP3, SP4, PL5, NE3, H9 and GD6 of the adopted Bridging Island Plan (2023),

the Landscape & Seascape Character SPG (2023) and the Housing outside the built-up area SPG (2023).

2. The design of the proposed dwellings is not in keeping with the architectural character of the area and does not relate well to its setting, resulting in a visually incongruent development within its landscape setting, contrary to Policies SP3, SP4 and GD6 of the adopted Bridging Island Plan (2023).

3. The architectural design, siting and scale of the proposed dwellings in a sensitive landscape does not protect or improve the setting of the Listed buildings in the vicinity of the site, with the application failing to acknowledge or analyse the historic context, contrary to Policies SP4 and HE1 of the adopted Bridging Island Plan (2023) and the Housing outside the built-up area SPG (2023)."

Description of the site and its surroundings and the proposed development

2. The site is in the Green Zone, in a rural location where there is sporadic housing surrounded by agricultural uses. There are two dwellings on the site. Les Rouettes is a two-storey four-bedroom house with a mansard roof; it is probably an extended cottage. Les Rouettes Cottage is a three-bedroom chalet bungalow, whose origins may have been outbuildings. The building materials used and the finishes applied in both dwellings are varied and the dwellings have an unattractive appearance.
3. The dwellings are also poorly sited, existing side-by-side with only a small gap between them. There is no dispute that they are in a poor state of repair and it has been accepted for the purposes of Policy GD5 of the Bridging Island Plan that it would not be economically viable to repair or refurbish either of them.
4. It is proposed to demolish both dwellings and to replace them by two well-spaced houses within the existing curtilage. The new houses would be constructed using traditional materials including granite. They would have a single access point. The existing separate access track to the Cottage would be closed and absorbed into the adjoining agricultural land, which would be planted as an apple orchard. A comprehensive landscape scheme has been proposed that would include steps to replace trees destroyed by Storm Ciaran.

The main issues

5. There is a considerable overlap between the three reasons given for refusal. Essentially, they raise two main issues: (1) whether the effect of the development on the character and appearance of its surroundings would be acceptable and (2) what would be the effect of the development on the setting of the listed buildings referred to? I have dealt with the second issue first.
6. Policies SP4 and HE1 state that any development that affects the setting of a listed building will need to protect or improve the setting, in accordance with its significance and the special interest of the building. The supporting text on page 135 states that the setting of a listed building relates to its surroundings and the way in which it is understood, appreciated and experienced by people within its context.

7. The listed buildings are Albion House, Clair Val and Cour de la Reine, which are houses grouped around the junction of La Grande Route de Faldouet and Les Ruettes, and Devon Villa, a farm further north on La Grande Route de Faldouet. All of them have been listed because they are 19th-century properties retaining historic character and original features, and because Cour de la Reine also contributes to streetscape character and Devon Villa has a 17th-century Jersey round arch facing the road in its boundary wall. All the buildings are listed Grade 3 (Buildings of special public and heritage interest, being important, good quality examples of a particular historical period, architectural style or building type, but with alterations that reduce the special interest and/or have particular elements worthy of listing.)
8. I concluded on my visit to the listed buildings' surroundings that the way in which they would be understood, appreciated and experienced by people is their appearance when viewed from the road from a short distance away. Measured in a direct line, the nearest listed building to the development would be Albion House, which is about 90m away from the boundary of the part of the site that would be re-developed (the remainder of the site would remain in agricultural use as the proposed orchard). Clair Val, Cour de la Reine and Devon Villa are respectively about 110m, 120m and 150m away from this boundary. In this context, I do not consider that the replacement of the two dwellings on the site by two dwellings of a similar size would have any impact on the setting of any of the listed buildings.
9. Turning now to the first issue, the key policy relating to these matters is Policy H9 (Housing outside the built-up area). This policy applies to all sites outside the built-up area, including those in the Green Zone. It states that proposals for new residential development outside the built-up area will not be supported except in certain circumstances. One of these circumstances is: -

"5. in the case of the redevelopment of existing dwellings, involving demolition and replacement, the replacement dwelling:

a. is not larger than that being replaced in terms of gross floorspace, building footprint and visual impact, except where any increase can be justified having regard to functional needs or necessary improvements to the standard of accommodation; and

b. gives rise to demonstrable environmental gains, contributing to the repair and restoration of landscape character."
10. The Infrastructure and Environment Department have accepted that the new houses would not have a larger gross floorspace than the existing dwellings and that the building footprint would be reduced. These elements of criterion 5.a in Policy H9 would therefore be satisfied. The Department's objection is based on the eastern replacement dwelling having a greater visual impact than the dwellings being replaced. I have therefore assessed whether this increased visual impact is "justified having regard to functional needs or necessary improvements to the standard of accommodation".
11. The appellant in response makes several well-argued observations, with which I agree. As noted in paragraph 3 above, the existing dwellings are poorly sited, being side-by-side with only a small gap between them. Today's planning policies call for a satisfactory spatial arrangement between the replacement dwellings, with adequate privacy, a good standard of

accommodation, sufficient amenity space and satisfactory parking and turning arrangements. The development would achieve all these without the overall height of the new dwellings being greater than the existing height or the existing residential curtilage being extended into the adjoining countryside. The terms of the exception in criterion 5.a would clearly be met.

12. Paragraph 5.8 of the supplementary planning guidance *Housing outside the built-up area* gives advice about the interpretation of criterion 5.b in Policy H9. It states:

“Evidence should be provided to demonstrate that the redevelopment of the building will deliver environmental gain, related to the repair of landscape character. This could be achieved through improvements in siting, design and use of materials in addition to the specific enhancement of landscaping to better integrate the development into its landscape context.”

13. The Department's Landscape Officer's consultation responses indicate that this advice would be complied with. These record:

“The dwellings are surrounded by agricultural land amid the green zone. SPG – Landscape and Seascape Character Guidance (2023) designates the site as belonging to the 'Interior Agricultural Plateau' (character area 'E4 Southern Plateau and Ridges Farmland') prioritising protection of the rural landscape.

The application proposes to replace 2no existing dwellings and is thought to present an appropriately scaled scheme realising an improved site layout. The character of the architecture is reminiscent of a converted farmstead utilising local materials and expressions of traditional detailing. The two new houses would enclose a central square yard and a low, granite wall with simple wooden gateways would form the roadside boundary of the domestic curtilage.”

“Extinguishing the access track to Les Ruettes Cottage is understood to maximise the usable land of Field MN479B. Conversion to an orchard, on this relatively small plot, is considered appropriate, subject to consultation with Land Control [who had no objection]. As per the project ecological Enhancement Report, it is suggested the meadow around the apple trees should be mowed and managed for ecology.

The use of sustainable urban drainage is supported and it is recommended paved areas utilise a tumbled, block/sett paving to compliment a traditional, countryside character.”

14. After Storm Ciaran, the Landscape Officer added:

“It is noted that the updated site plan does not show replacement tree graphics for those individually lost, rather a note for new hedgerow. Since the ash and eucalyptus trees were features that were considered to mitigate the existing visual impact of built development, I would just look to clarify that new hedgerow planting can encompass a wider strategy of site screening. It is suggested views of the new proposed development can be complimented with 2-3 new trees placed within the proposed lawned areas to improve landscape character and to replace the wildlife resource that has been lost.”

15. All these matters can be dealt with by imposing planning conditions, as suggested by the Landscape Officer in the event of permission being granted. The appellant has agreed to these conditions being imposed. With these conditions, I am satisfied that the development would give rise to demonstrable environmental gains, contributing to the repair and restoration of landscape character, and that criterion 5.b would be complied with.

Inspector's overall conclusion, recommendation and planning conditions

16. For the above reasons, I consider that the proposed development would be in accordance with the Bridging Island Plan and that there are insufficient reasons why planning permission should not be granted, subject to appropriate conditions. The conditions I have recommended below give effect to the Landscape Officer's advice and to the further detailed considerations that were discussed and accepted at the hearing.
17. I recommend that the appeal is allowed and planning permission is granted for development at Les Ruettes (house) and Les Ruettes Cottage at Les Ruettes, St. Martin JE3 6EH, consisting of the demolition of the house and cottage, the construction of two four-bedroom dwellings, various landscape enhancements and a remodelled access, in accordance with the application Ref. P/2023/0853 and the plans and documents submitted therewith, subject to the following conditions: -

Standard conditions

- A. The development shall commence within three years of the decision date.

Reason: The development will need to be reconsidered in the light of any material change in circumstances.

- B. The development shall be carried out entirely in accordance with the approved plans and documents listed below.

Reason: To ensure that the development is carried out as approved.

Additional conditions

1. Prior to the commencement of the development, details shall be submitted to the Chief Officer to demonstrate that the development as approved will outperform the target energy rate (i.e. the minimum energy performance for new dwellings required by building bye-laws) by 20%, using the Jersey Standard Assessment Procedure (JSAP) calculator or the Simplified Building Energy Model (SBEM) tool.

Reason: To comply with Policy ME1 of the Bridging Island Plan.

2. Prior to the commencement of the development, a detailed scheme of soft landscaping shall be submitted to and approved in writing by the Chief Officer. The details shall include: i) the position of all new planting, the species of plants(s)/trees(s), their size, number and spacing and the means to support and establish them, ii) tree pit design, iii) seeding and turfing specifications, iv) topsoil specifications and the depth afforded to each planting zone, and v) the presence of any invasive plant species on

site, and if present, a detailed method statement for the removal and long-term management or eradication of the species. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first residential occupation of either dwelling or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure satisfactory landscaping of the site in the interests of biodiversity and visual amenity pursuant to Policies SP3, GD6, NE1, NE2 and NE3 of the Bridging Island Plan.

3. Prior to the commencement of the development, a detailed scheme of hard landscaping shall be submitted to and approved in writing by the Chief Officer. The details shall include: i) all existing landscaping features to be retained and any servicing required, ii) paving, step and kerb specifications with proposed laying patterns, iii) wall and fence types, their height, finish and construction, iv) external finished paving levels, and v) gate specifications.

Reason: To ensure a form of development that maintains and contributes positively to the character and appearance of the area pursuant to Policies SP4 and GD6 of the Bridging Island Plan.

4. No part of the development shall be occupied until both soft and hard landscaping finishes, fixtures and construction details are fully installed, in accordance with all information and drawings submitted to discharge Conditions 2 and 3.

Reason: To ensure a form of development that contributes positively to the natural environment and the character and appearance of the area pursuant to Policies SP3, SP4, GD6, NE1, NE2 and NE3 of the Bridging Island Plan.

5. Prior to the commencement of the development, full details of a Species Protection and Enhancement Plan shall be submitted to and approved in writing by the Chief Officer. The approved plan shall be implemented prior to the commencement of the development, continued throughout the development (where applicable) and thereafter retained and maintained as such. Any variations from the approved plan that may be required as a result of findings on site shall be agreed in writing in advance with the Chief Officer prior to implementation.

Reason: To protect biodiversity pursuant to Policy NE1 of the Bridging Island Plan.

6. Prior to the commencement of the development, details of the car and bicycle parking facilities (complete with electric vehicle charging infrastructure) to be installed shall be submitted to and approved in writing by the Chief Officer. The development shall be carried out in accordance with the approved details prior to the first occupation of the dwellings. The facilities shall thereafter be retained as such.

Reason: To ensure that the facilities are installed and made available for the use of residents pursuant to Policies TT2 and TT4 of the Bridging Island Plan.

7. The approved Site Waste Management Plan shall be maintained throughout the development as a living document and waste management shall be implemented in full accordance with it. Any variations from the Plan shall be agreed in advance in writing with the Chief Officer prior to implementation.

Reason: To comply with the provisions of Policy WER1 of the Bridging Island Plan.

Approved plans and documents

Location plan

Proposed site plan MSP-3222-PL05D

Proposed Floors Plans & Sections MSP-3222-PL06A

Proposed Elevations MSP-3222-PL07A

Planning Statement

Schedule of Accommodation

Site Waste Management Plan

Initial Ecological Assessment and Preliminary Roost Inspection

Bat Survey Results and Enhancements Report

Development Drainage Impact Assessment

Dated 1 October 2024

D.A.Hainsworth

Inspector