

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

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

### Report to the Minister

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

**Appellant:** Mrs Susan Kenny

**Planning application reference number:** P/2024/0425

**Date of decision notice:** 5 September 2024

**Location:** Rose Farm, Le Mont Cochon, St Helier, JE2 3JB

**Description of development:** RETROSPECTIVE: Demolish existing garage. Construct single storey flat roof extension to East Elevation. REQUEST FOR REVIEW of refusal of planning permission.

**Appeal procedures and dates:** accompanied site inspection, 14 January 2025 and hearing 17 January 2025.

**Date of Report:** 18 February 2025

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### Preliminary matters

#### Naming conventions

1. I understand that the appeal property, the adjacent bungalow, and the neighbouring dwelling to the north may be undergoing name changes. At the hearing, the appellant confirmed that the wider site within which the appeal proposals are located is known as "Rose Farm." The building which is the focus of this appeal is currently known as "Rose Farm Cottage" or "the cottage." The bungalow is known as 'Rose Farm House.' For the avoidance of doubt, I have used these names throughout my report. I have referred to the main dwelling house of the listed building to the north as 'Douceville Cottage.'

#### Extent of listed buildings

2. Douceville Cottage, to the north, is a listed building. The quality of the plan accompanying the listing is poor, making it difficult to clearly identify boundaries on the ground. However, the plan appears to show part of the appeal site as lying within the listing boundary. The appellant contests this and has appealed to the Chief Officer for a clarification of the boundary. It was suggested by the appellant that "*without clarification about what land should be included in the Listing Schedule for Douceville Cottage and an independent assessment of heritage impact, a fully considered assessment under Policies SP4 and HE1 cannot be provided.*"
3. The Department sought clarification from the Heritage Environment Team (HET). In its appeal statement the Department quotes the HET: "*The Historic Environment Team regard Rose Farm as being outside the extent of listing of Douceville Cottage*"

*and the Historic Environment Team comments on the application, and the refusal notice, refer to impacts on the setting of that listed building not direct physical impact on Douceville Cottage.”* This position was confirmed by HET at the hearing. Whilst not a confirmed position, I have proceeded to consider the appeal on the basis that the appeal site lies within the setting of, but is outside the listed area of Douceville Cottage, listed building.

#### Grounds of appeal

4. The appellant has changed her planning adviser between submission of the initial grounds of appeal and submission of the appeal statement. The initial grounds of appeal suggested that the works met the criteria to be considered permitted development and hence did not require planning permission. This ground was removed within the appeal statement and the appellant accepts that the works would require permission. Consequently, this aspect has not been considered further.

#### **Introduction and relevant planning history**

5. This appeal concerns refusal to grant retrospective permission for demolition of an existing garage and extension and their replacement with a single storey flat roof extension to the eastern side of Rose Farm Cottage.
6. The application was initially determined by the Infrastructure and Environment Department (the ‘Department’) using delegated powers on 25 July 2024. The decision was subsequently reviewed by the Planning Committee at its meeting of 5 September 2024. It confirmed the previous decision to refuse the application because:

*“1. The retrospective extension by virtue of its design, scale and form would represent a disproportionate, incongruous addition to the dwelling. The extension is not subservient, and the design fails to successfully addresses (sic) the relationship to existing buildings or contribute positively to the wider landscape setting. This is contrary to Policies NE3, GD6 and H9 of the Bridging Island Plan 2022.*

*2. The retrospective extension by virtue of its contemporary prominent design dominates views from the south and east and fails to protect the setting of Douceville Cottage, which is a Grade 3 Listed building to the north, experienced within the context of the extension. This is contrary to Policy HE1 of the Bridging Island Plan 2022.”*

#### **The appeal site and proposed development**

7. Rose Farm Cottage is a 5-bay, granite-clad building, located above Fern Valley, within the green zone. It sits within generous grounds, close to the northern boundary of the plot. To the south-east and within the same grounds, sits Rose Farm House, a modern bungalow and associated external swimming pool. Externally, this appears in a poor state of repair.
8. The property is separated from land to the north by a boundary wall. Beyond this, sits a derelict outbuilding within the grounds of Douceville Cottage, which is a listed building. It is understood that there is a planning application to convert the outbuilding to holiday accommodation.

9. The northern boundary wall extends to the east. It is not straight but describes a curve southward. Further east are the slopes of Fern Valley. To the south are private grounds associated with the appeal property and the bungalow. Some of these areas had been landscaped at the time of the site inspection.
10. The proposals seek retrospective permission for a single-storey extension attached to the eastern elevation of Rose Farm Cottage. Its northern wall follows the boundary between Rose Farm and Douceville Cottage to the north. Because the boundary is not straight, the extension sits at an oblique angle to the host building. The extension houses a kitchen, utility room and downstairs cloakroom. It is constructed mainly from glass panels, with pillars of white render. The roof is finished in dark colours and extends beyond the glass walls at the south-east end, to create an 'overhang,' which provides protection for an area of decking underneath. The western end of the building projects in front of and obscures the south-eastern corner of the host building.
11. The extension replaces a previous smaller extension and separate, but linked, garage appended to the east of Rose Farm Cottage. A roof terrace sat on top of the previous extension and could be accessed either by stairs from ground level between the extension and garage or from a 'stable' door through the eastern wall of the property at first-floor level. This 'stable' door remains unaffected by the proposals.

#### **Case for the appellant**

12. The appellant's grounds for appeal and response to the reasons for refusal are:
  - Surely it was not the intention that part of the listed site for Douceville Cottage included part of the site owned by Rose Farm.
  - The owners of Douceville Cottage have removed their objection to the scheme.
  - Little or no weight has been given to the existing garage and kitchen extension which used to exist on the site of the proposals.
  - The height of the current extension is the same as the height of the garage that used to exist. We therefore cannot understand why there are concerns as to the scale of the extension which currently exists.
  - The first-floor balcony that was on the previous extension has been removed. This would have led to privacy and overlooking issues for occupants. Removal of this balcony is considered to be a planning gain.
13. As noted in the preliminary matters, the appellant has accepted that planning permission for the works is required and has removed this as a ground of appeal.

#### **Case for the Department**

14. In addition to the reasons for refusal, the Department noted:
  - The Historic Environment Team have confirmed that they consider that Rose Farm is outside the extent of listing of Douceville Cottage and that its comments refer to impacts on the setting of that listed building and not direct physical impact on Douceville Cottage.
  - The extension is large and assertive and impacts negatively on the setting of Douceville Cottage to the north. Whilst the impact from Douceville Cottage itself is minimal, setting is not just experienced from the listed building itself and extends beyond immediate property boundaries into the wider area, which includes views that are not in the public domain.

- It is not accepted that the built extension and the previous extension and garage are similar in size. The newly built extension is much wider than the previous garage and extension and also in part longer in length. In addition, the previous extension and garage were separate buildings as opposed to the proposed which is one large structure with a greater overall visual impact.
- Any planning gain from the removal of the previous first floor balcony is considered limited and does not overcome the material planning harm identified in the two reasons for refusal.

## Consultations

15. The **Historic Environment Team (HET)** (25 June 2024) objected to the proposals. It raised concerns about the retrospective nature of the application. It considered the Heritage Impact Statement is “*superficial in scope, and lacks any real assessment of the setting of Douceville Cottage and how this contributes to the significance of the listed building. It is suggested that the impact of the proposal on the setting of Douceville Cottage is neutral but this relies mostly on a statement that the view from the listed building remains mostly unaltered.*” HET considers the proposed extension to be of a comparable height to the previous extension but has a significantly larger footprint and that the overhanging roof adds to its prominence. It also notes that the extension wraps around the south-east corner of the main house, unlike the previous extensions. HET considers the modern appearance with expansive glazing to be at odds with the host dwelling and adjacent listed building. It is not considered to be subservient to the main house and HET considers the extension dominates views from the south and east. It is considered to impact negatively on the setting of Douceville Cottage as it detracts from the strongly rural character of the immediate environment by competing with it.
16. **Department for Infrastructure Operational Services - Drainage** (9 July 2024) did not object to the proposals. It advised that existing drainage should be inspected to ensure it has capacity for any perceived increase in occupancy. Provisions for visiting tankers were outlined. Parameters for the design of a soakaway and recommendations for percolation tests were also included.

## Representations

17. Two comments were received from the same individual. The first of these identified concerns in relation to overlooking of the neighbouring property to the north and sought a condition to prevent use of the flat roof as a deck or platform. It also sought a condition to require the re-instatement of the height of a boundary wall to the east of Douceville Cottage, to take account of the raised deck on the south side of the wall. The second response removed the objection following discussions with the appellant.

## Inspector’s assessment

18. Article 19 of the Planning and Building (Jersey) Law 2002 as amended states “*In general planning permission shall be granted if the development proposed in the application is in accordance with the Island Plan*”. Planning permission may also be granted for proposals that are inconsistent with the Island Plan if there is sufficient justification for doing so. In reaching a decision, all material considerations should be taken into account.

19. The current Island Plan is the Bridging Island Plan, March 2022 ('the Island Plan'). Having regard to the policies within that plan, the reasons for refusal and the grounds for appeal, and points raised in representations, I conclude that the determining issues in this appeal are:
- The acceptability of the design, scale, and form of the extension, including its relationship to existing buildings and the wider landscape.
  - The effect of the proposals on the setting of Douceville Cottage, Grade 3 Listed building.
  - The relevance of the removal of the previous structures.

The acceptability of the design, scale, and form of the extension, including its relationship to existing buildings and the wider landscape.

20. The proposal site is within the green zone. Policy H9 - Housing outside the built-up area notes that proposals for new residential development outside the built-up area will not be supported except in certain circumstances. In the case of an extension to an existing dwelling, the extension should remain, individually and cumulatively, having regard to the planning history of the site, subservient to the host dwelling. Also, it should not disproportionately increase the size of the dwelling in terms of gross floorspace, building footprint or visual impact.
21. Design issues are addressed through policy GD6 - Design quality. The policy seeks "*a high quality of design that conserves, protects and contributes positively to the distinctiveness of the built environment, landscape and wider setting*". Proposals should successfully address several key principles, including consideration of the relationship of the development to existing buildings; the use of materials relative to the character and identity of the area; and its impact on neighbouring uses, including land and buildings and the public realm.
22. Policy NE3 - Landscape and seascape character is also relevant. It seeks that development must protect or improve landscape and seascape character as defined in the 'Integrated Landscape and Seascape Character Assessment' (2023) (ILSCA). The application site spans two Character Areas: Character Area E4: Southern Plateau and Ridges Farmland of the Interior Agricultural Plateau Character Type and Character Area D1: Southern Valleys of the Enclosed Valleys Character Type. The ILSCA advises that development in Character Type E should protect the strongly rural character of the less developed areas, and that any new housing development should be carefully located adjacent to existing settlements. Within Character Type D, the undeveloped, wooded character and distinctive valley floor meadows should be protected. Development, particularly on steeper slopes, where extensive earthworks would be required, or where it would breach the skyline or where it would result in the loss of woodland should also be resisted.
23. During my site inspection I saw that although the appeal site is located towards the top of a slope, the extension would be viewed against a backdrop of existing buildings and would not break the skyline. Topography and existing boundary features would also act to restrict distant views of the extension, although parts of the extension would be visible, particularly from slopes to the east.
24. The proposed extension is single storey and the same height as the structures it replaced. However, the footprint is greater than the structures it replaced (new GFA is 60m<sup>2</sup> compared to previous GFA 46.5m<sup>2</sup>). Whilst empirically this is not a large increase in area, it does represent a significant increase in footprint compared to the structures it replaced. The oblique angle of the extension means that the face

of the extension projects in front of and partially obscures the eastern end of the main elevation of Rose Farm Cottage. I find this a visually uncomfortable relationship, with part of the new extension, obscuring the edge of the old. The use of large areas of glazing, the choice of contemporary finishes and the overhanging roof at the eastern end all add to the prominence of the extension. I conclude that the extension is a conspicuous and dominant feature, which is not subservient to the existing building. These features also mean that it disproportionately increases the visual impact of the building. Indeed, the appellant's own statement acknowledges that *"The extension has not been designed to be subservient. It has been designed to be a set architectural piece that is 'read' as a modern addition to the building group that is Rose Farm and within an enhanced landscape context."*

25. The surrounding area is clearly rural in character. The design and finishes of the extension are modern, but not unattractive in their own right. The design has also created bright, usable internal spaces. Nevertheless, the choice of contemporary materials and finishes is very different in character to those of the host building and the listed building just to the north. It is also very different in character to the nearby Rose Farm House (bungalow), albeit that too is characteristic of the date of its construction and is of a different character to Rose Farm Cottage. I conclude that the choice of contemporary design and materials appear discordant in their rural setting and in such close juxtaposition to the traditional-style granite clad host building.

The effect of the proposals on the setting of Douceville Cottage, Grade 3 listed building.

26. Effects of development on listed buildings is addressed through Policy HE1 - Protecting listed buildings and places, and their settings of the Island Plan. This states *"proposals that could affect a listed building, or place, or its setting, must protect its special interest."* Proposals should also seek to improve the significance of listed buildings and places. The policy identifies four criteria that must be met in order for support to be given to proposals that do not protect a listed building or place or its setting, having regard to the comparative significance of the listed building or place or its setting and the impact of the proposed development on that listed building, place or setting.
27. As noted above, it is common ground between parties that any effects would be upon the setting of the listed building and not the listed feature itself.
28. The special interest of Douceville Cottage is described on the listing schedule as "Architectural" and "Historical." The Statement of Significance describes it as *"18<sup>th</sup> century rural house. This building has fine exterior stonework, its interior retains many rarely surviving features including panelling and the roof timbers."*
29. At the hearing, the representative of the HET summarised the apparent phases of occupation and associated development in the wider Rose Farm and Douceville Cottage area. Whilst this provides useful context for understanding the setting, I note that these phases of development, including Rose Farm Cottage, are not identified on the Listing schedule as part of the special interest of the listed building or its setting, nor are they identified as part of the significance of the listed building.
30. The HET has objected to the proposals, noting that the large and assertive nature of the extension would not protect the setting of Douceville Cottage. However, my reading of the policy is that it seeks to protect the special interest of the listed building or its setting, rather than providing blanket protection of the setting from

any change. In reaching that view, I note that the preamble to the policy acknowledges that relationships between buildings will evolve over time and that the setting of a listed building is not fixed.

31. Setting is defined in the Glossary to the Island Plan as the surroundings that it (a listed building or place) is experienced in. Inter-visibility between the appeal site and the extent of listing is restricted, to a degree, by the mutual boundary wall. However, the extension is visible within the wider setting of the listed building, particularly from the slopes to the east. I note the appellant's assertions that there have been other changes within the setting occasioned by removal of vegetation. However, I need to assess the proposals that are before me. I conclude that the experience and appreciation of the architectural special interest of the listed building is influenced by the presence of the contemporary design and materials of the extension, which acts as a stark contrast to the traditional stone-clad listed building.

#### The relevance of the removal of the previous structures.

32. I am aware that the proposals have resulted in the removal of an existing extension and garage, which included a balcony at first floor level. Based on the photographs, I do not consider that these features had any special architectural merit. Removal of the roof top balcony has also reduced the risks of overlooking of the property to the north. Even so, any benefits would not provide justification for the current proposals.

#### Other matters

33. The appellant has aspirations to make improvements to the wider building group and grounds at 'Rose Farm,' which includes changes to the nearby Rose Farm House (bungalow). I have been asked to consider these wider proposals as providing the context for the design approach for the extension. Nevertheless, these wider proposals are still at development stage and do not have any planning status. Nor do they form part of the appealed proposal. Consequently, I have given them little weight.
34. The appellant has referred to new planting and landscaping that has been undertaken to improve the appeal site. It has been suggested that further improvements could be secured by a condition requiring the preparation of a Landscape Management Strategy Plan. The appellant has also suggested that this could act as compensation "*if the Minister disagrees that the design of the extension cannot be supported and receive planning permission.*"
35. Irrespective of the retrospective nature of this application, I need to assess the proposals against the provisions of the Island Plan as a whole. Planning permission can only be granted for proposals inconsistent with the Island Plan if there is sufficient justification for doing so. In this case, I do not consider that a landscape management plan would provide sufficient justification for allowing a proposal judged to be inconsistent with the Island Plan.
36. The appellant has suggested that there have been recent, significant changes to the setting of the listed building arising from removal of vegetation and potential introduction of structures to the eastern slopes. It is also suggested that further changes would arise from a planning application within the setting. However, I need

to assess the appealed proposals on their own merits, based on the circumstances before me, rather than by comparison with other potential changes.

37. I recognise that this is a retrospective application and the consequences that may arise if planning permission is not granted. However, these are not matters that I can take into account when reaching a recommendation.

### Conditions

38. As noted above, the appellant has suggested a condition requiring submission and approval of a Landscape Management Strategy Plan. Whilst changes to the colour of the finished render, materials and some planting might act to reduce the scale of impacts, I accept the Department's assessment that a landscaping plan would not be able to address or satisfactorily mitigate the elements of the design that cause concern, notably the increased footprint, wrap-around at the front of the host building or extensive glazing. Nevertheless, should the Minister determine to allow the appeal I would recommend that a condition concerning approval of finishes and landscaping be appended.
39. The Department has also suggested a condition to prevent the use of the flat roof of the extension as an amenity area. Given that there is easy access to this roof via the stable door in the east elevation at first floor level, I accept that this would be a reasonable and necessary condition.
40. I have considered the request of the neighbour to the north concerning height of the boundary wall. I consider this a private matter, not requiring a condition.

### **Conclusions**

41. For the reasons set out above, I find that the proposals are not consistent with policies H9, GD6 and NE3 as the extension is not subservient to the existing building and the projection of the extension in front of the face of the host building results in an uneasy relationship. In addition, it does not conserve, protect, and contribute positively to the distinctiveness of the landscape and wider setting. These factors mean that it also fails to be consistent with policy HE1. Having considered all aspects, I conclude that the proposals would not accord with the Bridging Island Plan overall.

### **Recommendations**

42. I recommend that the appeal should be dismissed, and that planning permission should be refused.
43. If the Minister decides to disregard my recommendation and grant planning permission, then I recommend that this should be subject to the conditions set out in paragraphs 38 - 39 above.

Sue Bell  
Inspector 18 February 2025