



Appeal Decision Notice

Planning Tribunal Hearing held on 3 April 2012 at Les Cotils Christian Centre, St. Peter Port followed by a visit to the Appeal site

Members: Mrs. Linda Wride (Presiding), Mrs. Sheelagh Evans and Mr. Nigel Burnard

Appeal Site: Reasons Cottage, Carriere Lane, Vale

Property Reference: C011450001-P02

Planning Application Reference: FULL/2011/1418

Planning Application Valid Date: 24 May 2011

Appeal Case Reference: PAP/001/2012

- The Appeal is made under the provisions of Part VI and section 68 of The Land Planning and Development (Guernsey) Law, 2005.
 - The Appeal is made by Mr. D Trustrum and Ms. Kate Gill against the decision of the Environment Department made on 28 July 2011 under section 16 of the Law to refuse planning permission to extend the curtilage and create parking area to the rear of the property.
 - The appellants represented themselves.
 - The Environment Department was represented by Mrs. Christine Miles, Planning Officer and Mr. Peter Tidd, Head of Transport Services, Public Services Department.
-

Decision

1. The Appeal is allowed.

Procedural Matters

2. Section 69 of the Law requires the Tribunal to determine appeals on the basis of materials, evidence and facts which were before the Department when it made the appealed decision.
3. The appellants' grounds of appeal are set out in a letter dated 21 December 2011 and a further letter dated 10 September 2011 from the occupiers of the adjoining house, St Mary Anthony, together with an accompanying set of photographs. Although both of these letters post-date the original application, the Department raised no objection to their inclusion in the appeal documents at the Hearing.
4. After the Hearing but before reaching a decision, the Tribunal wrote to the parties seeking confirmation of the evidence before the Department when it determined the appeal application. By letter dated 19 April 2011, the Department advised that the case officer had gained a basic understanding of the matters contained in the letters referred to above when she visited the site in June 2011, before a decision was made on the application. For this reason, there was no objection to the inclusion of such evidence before the Tribunal. The Tribunal has therefore taken these matters into account in reaching its decision.

Background

5. The existing off-street parking for Reasons Cottage takes place on part of a large hardstanding to the rear of the St Mary Anthony. This was provided in accordance with a planning permission granted in 2007 to sub-divide St Mary Anthony into two dwellings. The occupiers of Reasons Cottage reach their designated parking spaces via a pedestrian right of way across St Mary Anthony's rear garden.
6. As well as serving Reasons Cottage, this hardstanding also provides the parking for the occupiers of St Mary Anthony and The Barn and Jug, a dwelling to the west. The parking area is served by a drive with access between St Mary Anthony and The Barn and Jug, on to the middle section of Carriere Lane.
7. The appellants have acquired a field to the rear of their property, with an existing field access on to Carriere Lane, close to the junction with Braye Road. Permission to extend the domestic curtilage of Reasons Cottage to include this field was granted in November 2011 subject to conditions, including a condition which prohibits the parking of vehicles on this area, primarily because Reasons Cottage already has authorised off-street parking elsewhere. This condition has not been appealed.
8. Both Reasons Cottage and St Mary Anthony are protected buildings. At the

Hearing, the Department advised that it had considered the effect of the development on the setting of these buildings and had no concerns in this respect. The Tribunal concurs with this view.

Main Issue

9. The main issue in this appeal is whether the provision of a domestic parking area on the field would harm highway safety given the anticipated increase in traffic movements at the existing field access which has sub-standard visibility in both directions.

Development Plan

10. Policy GEN8 of the Urban Area Plan (Review No 1) advises that the need to ensure a safe and convenient access will be taken into account when considering proposals for development.
11. The Plan is supported by approved Traffic Engineering Guidelines for Guernsey. Appendix 2 to the Guidelines specifies design standards for different types of roads on the Island, including visibility requirements. For neighbourhood roads with a design speed of 15 to 20 mph, such as Carriere Lane, an access serving a private drive, as in the appeal scheme, 20m visibility measured 2m back from the edge of the carriageway is recommended in both directions. In reaching its decision, the Tribunal has given this document considerable weight, whilst noting that it provides guidance rather than setting mandatory standards.
12. The appeal scheme does not propose any alterations to the appeal site's highway boundary. However, the Department acknowledges that there is scope to improve visibility at the access by reducing the height of boundary walls. Any such works would be assessed against Policy GEN6 relating to locally distinctive features and characteristics and Policy DBE9 concerning the demolition of buildings and features.

The Tribunal's Assessment

13. Carriere Lane is designated a "Neighbourhood Road" in Guernsey's road hierarchy, i.e. a road which is predominantly residential in character, with little or no through traffic, with a primary function of providing access to individual properties. The east end of the lane terminates at Braye Road, close to the junction with Braye Road Clos on the opposite side of the main road. The central section of the lane runs to the north of Braye Road, before looping back to rejoin the main road some 100m further west.
14. Although variable, the highway is generally about 4m wide without a footway. It is therefore effectively a single carriageway. When meeting oncoming traffic,

drivers tend to use accesses serving private drives as passing spaces/places. Along the carriageway edge, high walls and banks with vegetation (often evergreen) restrict forward visibility, as do the bends in the lane, including at the eastern end near the appeal site access.

15. At the time the application was submitted, the Traffic Officer who visited the appeal site noted the presence of established vegetation over 2m high, sitting on top of the rubble roadside walls, which themselves varied in height between 1m to 1.5m. Sightlines from the field access measured at that time were about 6m in both directions, with visibility obstructed by both walls and vegetation.
16. Whilst noting the scope to improve visibility by cutting back vegetation and lowering parts of the roadside wall, the traffic officer advised that such works would still not achieve the recommended visibility guidelines at the field access. Given the anticipated increase in traffic movements arising from the proposed domestic parking area, the Traffic Officer opposed the proposal on highway safety grounds due to the sub-standard visibility at the field access at that time.
17. As the planning application form states that trees on the site were to be removed, it is reasonable to assume that the Department would have taken this intention into account when refusing the appeal scheme on highway safety grounds. Since that time, trees have been removed along with the established roadside vegetation to the north east of the field access. Vegetation to the south west side of the access has also been cut back to the site boundary.
18. Having revisited the appeal site since these works were carried out, in the Department's opinion, the removal of trees and vegetation has not made a discernable difference to visibility at the field access. It remains of the view that permission should be withheld on highway safety grounds. However, the Tribunal has reached a different view on this matter based on measurements and observations on site.
19. From the point of view of a driver leaving the appeal site, cutting back vegetation to the right of the field access has opened up views of approaching vehicles shortly after they enter the lane from the south, a significant improvement to visibility when looking towards the junction of Carriere Lane with Braye Road. As measured and agreed on site, visibility is now the region of 17.5m-22m (depending from where the measurement is taken) compared with 6m before.
20. On first impression, the improvement to visibility looking left from the field access is less marked. However the boundary wall, which obstructs visibility at a point some 7m from the field access in this direction, reduces in height

further along the highway frontage. This reduction in height combined with the removal of all vegetation on the appeal site means that vehicles traveling downhill on Carriere Lane towards the junction with Braye Road are visible above the top of the wall up to a point some 13.4 m from the field access.

21. Likewise, a vehicle approaching the field access from within the appeal site would be visible to a driver traveling in a southerly direction along the lane. The lie of the land, with the appeal site sitting above the level of the adjoining highway also benefits inter-visibility between drivers in the lane and using the field access.
22. Nevertheless, the fact remains that there is a short stretch of road around 6.4m in length where visibility is obstructed when looking left from the field access. The Tribunal has therefore considered whether there are any factors which might mitigate the highway safety risk arising from this intermittent obstruction to visibility.
23. When assessing the original application, the Traffic Officer used the visibility standard for roads with a design speed of 15-20mph, in accordance with the guidelines. However, whilst on site, the Tribunal noted the narrow width of the carriageway outside the field access, the tight bend between the field access and the nearby junction with Braye Road, and the yellow arrow on the carriageway directly opposite the field access which warns drivers that they are approaching a mandatory stop line. In the Tribunal's view, these factors would be likely to reduce traffic speed in the vicinity of the field access, sufficient to justify relaxing the standard visibility requirement in this particular case.
24. There is no doubt in the Tribunal's mind that being able to park vehicles within their own curtilage without having to cross a neighbouring private garden would be much more convenient for the appellants than the authorised arrangement, as well as being a benefit for the occupiers of St Mary Anthony having regard to privacy.
25. Being able to access a private residential parking area from the eastern arm of Carriere Lane, close to the junction with the main road, would be more convenient for the appellants than using the existing parking area at St Mary Anthony which is accessed from the busier central section of the lane. Furthermore, a reduction in the number of traffic movements on the central part of Carriere Lane where there are many other accesses to private drives (each a potential traffic hazard) would have a wider public benefit in terms of highway safety, in the Tribunal's view.
26. In reaching its decision, the Tribunal has taken into account other concerns about using the existing vehicular access at St Mary Anthony highlighted by the appellants and their neighbours. This access serves a hardstanding currently used to park seven vehicles belonging to three separate households.

The Tribunal considers that this arrangement is likely to give rise to conflicting traffic movements on the narrow drive with its steep gradient at the Carriere Lane junction. In the Tribunal's view, such factors are likely to exacerbate the inherent safety risk posed by conflicting traffic movements, especially reversing movements.

27. Whilst noting the Department's view that visibility at the St Mary Anthony access is better than at the field access, this was not borne out by the Tribunal's observations on site. Due to the geometry of the drive, vehicles have to turn left when leaving the access. A high wall along the highway boundary limits visibility in this direction to about 10m. This is significantly less than visibility looking right at the field access, the direction from which vehicles are likely to enter and leave the appeal site due to the configuration of field access.
28. Views from the St Mary Anthony access looking right are severely limited by a wall topped by a tall evergreen hedge along the highway boundary. In fact, it is impossible to see oncoming vehicles approaching from this direction unless the driver pulls out of the drive, on to the carriageway. In the Tribunal's opinion, this manoeuvre poses a far greater highway safety risk than the intermittent obstruction to visibility looking left from the field access at the appeal site.
29. The Tribunal is mindful that the appeal site was previously in use for agricultural purposes and the existing access would have been used for vehicular traffic associated with that use. There was some debate at the Hearing about whether domestic parking would be likely to generate significantly more traffic movements than an agricultural use. It was agreed that the level of vehicular activity associated with the latter would vary depending on whether the land was used for dairy farming; the production, rearing and maintenance of livestock; market gardening outdoors or growing under glass. Some of these activities would be likely to generate daily traffic movements on a scale not dissimilar to residential parking, whilst other types of agricultural would probably be relatively low key in terms of traffic movements. There was no conclusive evidence before the Tribunal in this respect.
30. As pointed out by the Department, tractors and four-wheel drive vehicles associated with agricultural activities have a higher driving position than a standard family car, and therefore potentially better visibility. However, this advantage would be of limited benefit where visibility at the access is obscured by established vegetation over 2m high, sitting on top of roadside

walls up to 1.5m high, as it was on the appeal site when agriculture was the authorised use of the land.

31. Whilst it is likely that permitting the appeal would be likely to result in a reduction in traffic movements at the St Mary Anthony access initially at least, the Tribunal accepts that this reduction in the number of traffic movements cannot be guaranteed in future. However, it considers that reducing the number of separate households using the land would have long-term benefits. The Tribunal also accepts that the benefits to visibility arising from the removal of vegetation at the appeal site cannot be guaranteed in perpetuity, as there is no control over planting within a domestic curtilage. However, it would be in the appellants' interest to maintain the existing level of visibility so as to minimize the risk to their own safety when using the field access.

Conclusions

32. There is no doubt in the Tribunal's mind that the appeal proposal would provide the occupiers of Reasons Cottage with more convenient vehicular access and parking arrangements than currently exists at St Mary Anthony for the reasons set out in paragraphs 24-26. The Tribunal also takes the view that now the appellants have carried out the tree removal works indicated on the application form, visibility at the field access is better than at the access serving the existing parking spaces at St Mary Anthony. On balance, these considerations weigh in favour of the appeal scheme.
33. Visibility at the field access remains below the standard recommended in the approved guidelines. However, the Tribunal considers that traffic on this part of Carriere Lane is likely to be traveling below the design speed of 15-20 mph for the reasons given in paragraph 23. It therefore takes the view that there is justification in this case to relax the standard visibility requirement.
34. Having taken into account the need to ensure a safe and convenient access in accordance with Policy GEN8, the Tribunal concludes that the appeal should be allowed.
35. As no works are proposed to the existing roadside walls or field entrance, Policies GEN6 and DBE9 do not apply. Although aware of the intention to remove trees on the appeal site, the Department did not seek to bring such works under planning control. The Tribunal must therefore conclude that the visual impact of such works on the character of the area was considered acceptable.
36. The Tribunal has considered all other matters which it believes were before the Department at the time the application was determined, but these do not affect its conclusion under the provisions of Part VI and section 68 of the Land Planning and Development (Guernsey) Law 2005 that the appeal be allowed in accordance with paragraph 28 above.

Planning permission is hereby granted on the following terms:

PROPOSAL: Extend the curtilage and create parking area to the rear of the property

LOCATION: Reasons Cottage, Carriere Lane, Vale

APPLICANT: Mr. D Trustrum and Ms Kate Gill

This permission is granted under the terms of Sections 68 and 69 of the Land Planning and Development (Guernsey) Law 2005.

This permission refers solely to the proposal referred to above, as described in the planning application validated by the Department on 24 May 2011 and on the 1:500 application block layout submitted with the application.

This permission is subject to the following conditions:

1. All development authorised by this permission must be carried out and must be completed in every detail in accordance with the written application, plans and drawings referred to above. No variations to such development amounting to development may be made without the permission of the Environment Department under the Law.

Reason: To ensure that it is clear that permission is only granted for the development to which the application relates.

2. The development hereby permitted shall be begun within 3 years of the date of grant of this permission

Reason: This permission reflects section 18(1) of the Land Planning and Development (Guernsey) Law, 2005, which states that planning permission ceases to have effect unless development is commenced within 3 years of the date of grant (or such shorter period as may be specified in the permission).

3. The development hereby permitted and all the operations which constitute or are incidental to that development must be carried out in compliance with such requirements of the Building Regulations 1992 (as amended) as are applicable to them, and no operation to which such requirement applies may be commenced or continued unless (i) plans relating to that operation have been approved by the Environment Department and (ii) it is continued in accordance with

that requirement and any further requirements imposed by the Environment Department when approving those plans, for the purpose of securing that Building Regulations are complied with.

Reason: Any planning permission granted under this Law is subject to this condition as stated in section 17(2) of the Land Planning and Development (Guernsey) Law, 2005.

4. Vehicle parking shall only take place within the area shown hatched blue on the plan submitted with the application on 26 April 2011.

Reason: In the interest of visual amenity.

**Linda Wride Dip TP MRTPI
Presiding Member**

Date: 24 April 2012