

Appeal Decision Notice

Planning Tribunal Hearing held on 30 May 2012 at Les Cotils Christian Centre,
St. Peter Port followed by a visit to the Appeal site

Members: Mrs. Linda Wride (Presiding), Mr. Patrick Russell, Mrs. Sheelagh Evans

Appeal Site: The Island Bowl, Victoria Avenue, St. Sampson

Property Reference: B012730000-P31

Planning Application Reference: FULL/2011/3108

Planning Application Valid Date: 29/09/2011

Appeal Case Reference: PAP/011/2012

- 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 Extravan (Guernsey) Limited against a decision of the Environment Department made on 30 November 2012 under section 16 of the Law to refuse outline planning permission on an application to erect a crèche centre.
- The appellant company was represented by Mr. D. Aslett of Aslett Naftel, who called Mr. J. Hodges, Director, Extravan (Guernsey) Ltd, Mr. H. O'Neill, Manager of The Island Bowl, and Mrs. A. Spoelstra to give evidence. Mrs. C. Smith, Senior Associate (Planning, Environment and Commercial Property) Spicer and Partners Guernsey, also attended the Hearing.
- The Environment Department was represented by Mr. A. J. Rowles, Director of Planning Control Services and Mr. S. Hartman, Planning Officer who called Mr. P. Tidd Head of Transport Services to give evidence.

Decision

1. The Appeal is dismissed.

Procedural Matters

2. At the Tribunal's request, an extract from the Urban Area Plan Proposals Map annotated to show the appeal site in relation to the boundary of the Settlement Area and the Belgrave Vinery Housing Target Area was circulated to all parties, together with a map showing cycle routes and pedestrian footpaths in the vicinity of the appeal site.
3. Three letters from Deputies of the States of Guernsey were submitted in support of the appeal after the application had been determined, but before the Hearing. In accordance with section 69 of the 2005 Law, the Tribunal has had regard to these letters only in so far as they refer to matters, evidence and facts before the Department when it made its decision.

Background

4. An earlier application to erect a crèche on the appeal site was refused permission in August 2011 on grounds relating to the site's location outside the defined Settlement Area settlement; inadequate information to assess the effect of the development on the adjoining Site of Nature Conservation Interest; insufficient information to assess the adequacy of parking provision; road safety and traffic management concerns arising from the additional traffic which would be generated by the development on to Victoria Avenue, which is designated a Neighbourhood Road in the approved Traffic Engineering Guidelines for Guernsey.
5. At the Hearing, the Department confirmed that additional information submitted in support of the appeal scheme had addressed concerns relating to nature conservation and parking and, as a result, these matters were no longer in dispute.
6. Although the Business Plan was devised with a 40 place nursery in mind, the proposed crèche is designed to accommodate 80 children, in the age range 6 months - 5 years. It is aimed primarily at the working parent market, offering both full and part-time childcare provision from Monday to Friday, between 8 am and 6 pm.

The Development Plan

4. The main thrust of the Urban Area Plan (UAP) is to concentrate development within defined Settlement Areas. Outside such areas, the emphasis is on maintaining the openness of the countryside to prevent the built-up areas from merging, and to safeguard significant areas of agricultural land. However, the Plan makes provision for some limited forms of development in these areas, where proposals satisfy the requirements of Policy CO1 relating to new development outside Settlement Areas.

5. Policy SCR2 supports proposals for essential educational facilities (which includes nurseries) in suitable locations within or adjacent to the Settlement Areas or on sites within Housing Target Areas. The need to ensure a safe and convenient access when considering development proposals is a requirement of Policy GEN8.

Main Issues

6. From its assessment of the papers submitted by the appellant and the Department, and from what was given in evidence during the Hearing and seen and noted during the site visit, the Tribunal considers that there are two main issues in this case:
 - (a) the suitability of the site for the proposed development having regard to its location outside the defined Settlement Area and Belgrave Vinery Housing Target Area; and
 - (b) the effect of vehicular traffic generated by the proposed development on highway safety and convenience

Development outside the Settlement Area and Belgrave Vinery Housing Target Area

7. The proposed crèche would be built on part of the Island Bowl car park. This complex of buildings, which includes a bowling alley, a bar, café and other leisure facilities as well as residential accommodation, is located in the countryside, beyond the built-up area of St. Sampson. The appeal site adjoins an Area of Nature Conservation Importance and is part of a designated Area of Landscape Value which wraps around the Island Bowl complex and the karting track to the north-east.
8. Vehicular access to the site is via Victoria Avenue, a predominantly residential street which has a junction with Les Banques at its eastern end. At its western end, Victoria Avenue links to Les Osmonds, a track which is wide enough for vehicles, but is unlit and un-surfaced. The grass growing down the middle of the track suggests that it is not used by motorized traffic on a regular basis. A footpath leading off the Island Bowl access road, close to the appeal site, runs due south through the Pitronnerie Road Industrial Estate to the built-up housing areas at La Vranque and Le Bouet.
9. The car park where the proposed crèche would be constructed is set in a dip, possibly the remains of a quarry, and is well screened by the lie of the land and surrounding vegetation. Given these site-specific circumstances and the design of the proposed crèche, in the Tribunal's view, the proposal would not harm the openness of the countryside and would be compatible with the visual character of the surrounding area. The loss of agricultural land does not arise given that the proposed crèche would be built on a car park. In these respects therefore, the proposal would accord with Policy CO1, which supports limited development outside Settlement Areas.

10. However, to be acceptable in terms of Policy CO1, a proposal must also be compatible with other policies in the Plan. The key policies in this case being Policy SCR2 on educational development and GEN8 on access.
11. There is no dispute between the parties that the proposed crèche would provide an essential educational facility. We were informed that there is unmet demand for pre-school childcare to support working parents and those wishing to return to employment. There are also recognised benefits in providing such a service in a building designed specifically for this purpose. As all but one of the existing nurseries are located in St. Peter Port, the provision of such facilities elsewhere on the island would help serve the needs of a wider community, especially (in this case) those who live and/or work in St. Sampson and the northern part of Guernsey. In these respects therefore, the appeal scheme has much to commend it.
12. However, the support for essential educational facilities afforded by Policy SCR2 is specifically for the provision of such facilities on sites “within and adjoining” Settlement Areas and within Housing Target Areas. The appeal site lies outside the Belgrave Vinery Housing Target Area and beyond the Settlement Area as defined on the UAP Proposals Map. The Tribunal does not consider that the appeal site “adjoins” the Settlement Area; this term usually means having a common boundary, whereas the appeal site is separated from the built-up area by a distance of 220m or so.
13. There was some discussion at the Hearing as to whether the appeal site lies “close to the main concentrations of homes and workplaces” as referred to in the text supporting Policy SCR2. As there is no definition of the term “close to” in the context of this policy, we, the members of the Tribunal canvassed views at the Hearing as to how this phrase might be interpreted. The consensus view was that a site’s proximity to houses and jobs should be assessed in terms of whether it is accessible by a range of transport modes and thus able to make an important contribution to sustainability.
14. The appellant states that the site is accessible to walkers via the footpath to the south and the Osmands Lane track, which we understand is used by older children cycling to St. Sampson’s High School. Whilst these routes and modes of transport might be used by members of staff who live locally and older students, the Tribunal is not convinced that they would be attractive to working parents with babies and children up to five years old. The footpath is narrow, overgrown in parts, un-surfaced and unlit and therefore unlikely to be suitable for a parent pushing a buggy or walking alongside a small child, or adults and young children on cycles. Accessing the footpath via the Industrial Estate when businesses are operating may also give rise to safety concerns, a disincentive to those with small children. For these reasons, the Tribunal considers it unlikely that a significant number of staff and clients would travel to the crèche on foot or by cycle.

15. Vehicular access to the appeal site would be along Victoria Avenue, which is effectively a cul-de-sac. Whilst staff figures for an 80-place nursery are not available, the Business Plan states that a 70-place crèche would require 21 staff. The nursery is therefore likely to generate a substantial number of traffic movements along Victoria Avenue. Whilst staff would make the journey only at the start and finish of the working day, because it is a cul-de-sac, each visit to the crèche by a car-borne parent would involve two journeys along Victoria Avenue at both drop off and pick up times. The Tribunal does not consider that traffic movements on this scale would make an important contribution to sustainability.
16. In summary, the proposal would be compatible with the visual character of its surroundings and would not result in the loss of agricultural land or detract from the openness of the countryside. In these respects, the proposal would satisfy the requirements of Policy CO1 criteria (a) and (b). Furthermore, there is no dispute that the crèche would help to satisfy unmet demand for pre-school care, and would thus be considered an essential educational facility in terms of Policy SCR2.
17. However, the appeal site is located outside the areas where limited development may be acceptable under Policy CO1 and where essential education facilities are supported by Policy SCR2. As the majority of staff, parents and children would be likely to travel to the site by car, rather than cycle or walk, the development would not make an important contribution to sustainability, notwithstanding the site's relative proximity to concentrations of housing and jobs. In this respect, the proposal would be incompatible with Policy SCR2, and thus fail to satisfy Policy CO1 (c). Furthermore, the proposal is considered incompatible with Policy GEN8 on access (for the reasons set out in detail below). This incompatibility with another UAP policy further reinforces the conflict with Policy CO1(c).
18. Taking all these matters into account, the Tribunal concludes that the site is unsuitable for the proposed development due to its location outside the defined Settlement Area and Belgrave Vinery Housing Target Area.

Traffic and access considerations

19. Although arrivals and departures would be staggered between the opening hours 08:00 and 18:00 hrs, the Tribunal was advised that the busiest time would be in the morning, between 08:00 and 09:00. This is the time of day when residents in Victoria Avenue would be most likely to use their cars to travel to work. Whilst the carriageway in Victoria Avenue is wide enough for two vehicles to pass, the width available for moving vehicles is restricted by parking on street. As a result, at times drivers must wait to let oncoming traffic pass before continuing their journey, causing some inconvenience.

20. Additional traffic generated by the crèche would exacerbate this inconvenience, particularly in the morning peak. However, at other times of the day when comings and goings are staggered over a longer period, this is less likely to be a problem. On balance therefore, the Tribunal is not convinced that effect of the additional traffic on residents in Victoria Avenue in terms of inconvenience and consequent disturbance to their way of life (which is the Department's concern) would be so detrimental as to justify withholding permission for an otherwise acceptable proposal.
21. Of far greater concern to the Tribunal is the effect of additional traffic generated by the appeal proposal on highway safety at the junction of Victoria Avenue and Les Banques. The Traffic Engineering Guidelines designate Les Banques as part of the Inter Harbour Route between St. Samson's harbour and the Weighbridge in St. Peter Port and is therefore of strategic importance in the Island's highway network. The coastal road is designed to accommodate very high traffic flows and 32 tonne heavy goods vehicles traveling with a design speed of 35 mph.
22. Used by some 30,000 vehicles per day, Les Banques is heavily trafficked compared with most of the roads on Guernsey, with a "tidal flow" of vehicles travelling south towards St. Peter Port concentrated in the morning peak, and north out of the town in the evening peak, which is more spread out. Although speed in the main traffic flow is relatively slow, vehicles traveling in the opposite direction against the flow can reach the road's design speed of 35 mph. To stop safely at such speed requires visibility of 33m measured back 2.4m from the junction of the major and minor road, in accordance with the Traffic Engineering Guidelines.
23. The recommended sightline is achieved in views looking north from the junction of Les Banques and Victoria Avenue. However, the presence of a zebra crossing very close to the junction is a hazard for drivers to be aware of, and therefore a potential distraction when emerging from Victoria Avenue in this direction. Although there are no permanent obstructions within the recommended visibility splay looking south, a vehicle parked in the loading/unloading bay on the highway outside the shop and hair studio on the corner of Les Banques and Victoria Avenue obscures views of vehicles on the main road until they are within 18m or so of the junction.
24. Even in good weather conditions, this sub-standard visibility increases the risk of road traffic accidents as vehicles emerge out of the minor road, especially in the morning peak when traffic speed heading north along Les Banques is likely to be relatively fast. In wet weather conditions, safe stopping distances are greater and the risk of collision therefore increased. There have been four reported road traffic accidents in the last five years in the vicinity of this junction. Although no details of these accidents were available, the Tribunal is aware that turning movements at junctions are a recognised highway safety risk and therefore may well have been a contributory factor in these accidents.

25. Turning right out of Victoria Avenue to travel south towards St. Peter Port involves crossing Les Banques at a point where the carriageway is particularly wide, with on-street parking, an un/loading bay and a bus stop in addition to the forward lane heading north, and a cycle lane/bus stop plus two lanes for traffic, one to turn right into Victoria Avenue the other to go straight on towards St. Peter Port, heading south.
26. Even with good visibility looking south, before turning right out of the minor road, drivers have to wait for a break in the traffic and make a judgement as to whether there is sufficient time to cross safely to the far side of the main highway. The Tribunal observed on site that making such a decision is more difficult when there are vehicles queuing to turn right from Les Banques into Victoria Avenue; traffic waiting in the centre of Les Banques obscures views of other vehicles traveling straight on, in the far lane. We also observed that the majority of drivers pull forward beyond the stop line at the end of Victoria Avenue before coming to a halt to look both ways before turning, which we see as an indicator of how difficult this junction is to negotiate safely even in good conditions, as at the time of our visit.
27. Additional traffic generated by the proposed crèche is not a concern in the context of the large volume of traffic currently using Les Banques and the capacity of the road to accommodate additional vehicles at this point on the highway network. However, any significant increase in turning movements into and out of Victoria Avenue is a serious concern for the reasons set out above. Whilst staff who drive to the crèche would make such turning movements twice a day, car-borne parents dropping their children off at the crèche before going on to work and picking them up again at the end of the working day would make such turning movements four times a day.
28. Given the number of children the crèche is designed to accommodate and staffing levels required to care for these children, and bearing in mind that most of these are likely to arrive by car, the Tribunal considers that the appeal scheme would result in a significant increase in turning movements at this difficult junction, many during the morning and evening traffic peaks. This pattern of activity would also increase the number of conflicting traffic movements at the east end of Victoria Avenue, where the footpaths stop, the carriageway narrows, changes direction and slopes up towards the main road. These highway characteristics close to the junction with Les Banques add weight to the Tribunal's concern on highway safety grounds.
29. Taking all these matters into account, the Tribunal concludes that the traffic generated by the development would unacceptably compromise highway safety, in conflict with the objective underpinning Policy GEN8.

30. In reaching this conclusion, the Tribunal has taken into account that the crèche would operate outside the times when the Island Bowl is at its busiest. We have noted the appellant's claim that traffic using Victoria Avenue has decreased from peaks in previous years, and that the road is now used by driving schools. We have also had regard to the highway context in which other nurseries operate in St. Peter Port. However, none of these considerations are sufficient to outweigh our concerns about highway safety at the Victoria Avenue/Les Banques junction.
31. Key development concepts set out in the Belgrave Vinery Outline Planning Brief include a new access from the western part of Victoria Avenue designed to allow traffic to be one way (westbound) along the eastern residential section of the street. This new access would provide an alternative route to and from the sports and leisure facilities in Victoria Avenue and would be able to serve the proposed crèche as well, thereby addressing the Tribunal's highway safety concerns.
32. The Outline Planning Brief was approved in January 2006 and therefore carries similar weight to the adopted UAP for the purposes of planning control. However, in approving the brief, the States resolved that no work be undertaken on the preparation of a detailed master plan or Implementation Plan unless so provided by the Corporate Housing Programme Action Plan for 2007 or succeeding years. No such provision has been made over the last six years.
33. A review of the island's Development Plans commenced in January 2012. This review will determine (amongst other things) whether the existing Housing Target Areas, including Belgrave Vinery, are still capable of contributing to meeting housing supply targets and whether they should be re-designated as new housing allocations. In these circumstances, the Tribunal considered it unwise to assume that the development concepts referred to above, as enshrined in the Belgrave Vinery Outline Planning Brief, would be likely to materialize on the ground in the foreseeable future.
34. A planning condition which prohibited development until such time as an alternative access to the appeal site was available and traffic management measures in place to make the eastern end of Victoria Avenue one way westbound, would therefore be unreasonable in these circumstances.

Other matters

35. In considering this appeal, the Tribunal acknowledges the time and effort that has gone into the search for a site/premises suitable to accommodate the crèche operation. We recognize the support for the proposal from the Early Years Manager in Health and Social Services Department, former and current Deputies and the absence of comments from residents in Victoria Avenue either in support of, or objecting to, the proposal. We note that some minor concerns relating to parking and internal site access arrangements have already been resolved, or are capable of being resolved by planning condition. We are

also aware that the unique funding arrangements in this case will make it more likely that the development will happen, if the appeal is allowed and permission granted. However, none of these considerations is sufficient to outweigh the Tribunal's concerns on highway safety grounds.

36. There was some discussion at the Hearing about an "after school club" operating at the crèche for older children. However, as this provision was not referred to in the application, supporting information or discussions with the Department, it has not formed part of the Tribunal's deliberations.

Conclusion

37. Whilst acknowledging the benefits of the appeal scheme, the Tribunal has reached the conclusion that the appeal site is not a suitable location for the proposed development, having regard to its location outside the Settlement Area and Belgrave Vinery Housing Target Area where development of this type would normally be supported. Our conclusion on the first issue is informed by concerns about the effect of the traffic generated by the development on highway safety associated with the additional turning movements at the Victoria Avenue/Les Banques junction which is the only means of vehicular access to the site for car-borne staff and parents dropping off and collecting children by car to and from their place of work.
38. The Tribunal has considered all other matters raised in written submissions, discussed at the Hearing and seen during the site visit. However, these do not affect its conclusion under the provisions of Part VI section 69 of the Land Planning and Development (Guernsey) Law 2005, that the Department's decision to withhold planning permission was reasonable, and that the Appeal cannot be upheld.

**Linda Wride Dip TP MRTPI
Presiding Member**

Date: 15th June 2012