



## Appeal Decision Notice

Planning Tribunal Hearing held on 25<sup>th</sup> July 2012 at Les Cotils Christian Centre,  
St. Peter Port including a visit to the Appeal site in the course of the Hearing

Members: Mrs. Linda Wride (Presiding), Miss Julia White and Mr. John Weir

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| <b>Appeal Site:</b>                     | <b>Les Rosiers, The Rohais, St Peter Port</b> |
| <b>Property Reference:</b>              | <b>A3111210000</b>                            |
| <b>Planning Application Reference:</b>  | <b>FULL/2011/2130</b>                         |
| <b>Planning Application Valid Date:</b> | <b>29<sup>th</sup> August 2011</b>            |
| <b>Appeal Case Reference:</b>           | <b>PAP/018/2012</b>                           |

- 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. Craig Le Cheminant and Mrs. Stephanie Le Cheminant against the decision made by the Environment Department on 25<sup>th</sup> November 2011 under section 16 of the Law to refuse planning permission to remove the existing gate and pillars to the front of the property to widen the vehicular access (retrospective).
- The appellant, Mr. Le Cheminant, attended in person.
- The Environment Department was represented by Mr. Jim Rowles, Director of Planning Control Services, and Mr. Carl Holden, Trainee Planning Assistant.

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### Decision

1. The Appeal is dismissed.

## Background

2. Les Rosiers is a semi-detached house on the south side of the Rohais, St. Peter Port, next to the Guernsey Cheshire Home. The building is set back some 6m or so from the road frontage. At some time in the past, part of the highway boundary wall has been removed to allow off-street parking on the forecourt. Until mid-2011, a footpath physically separated from the parking area by low upstands, provided direct pedestrian access from the street to the front door via a wrought iron gate. The gate was supported on one side by a free standing pillar and on the other side by a pier of similar height and design which terminated a short run of roadside wall sweeping up to the high boundary walls of the Guernsey Cheshire Home at the eastern end of the frontage. A narrow planting bed running along the Guernsey Cheshire Home boundary is evident on historic photographs.
3. At the Hearing, Mr. Le Cheminant explained that he and his wife decided to re-pave the forecourt parking area in 2011 to improve the appearance of the property. He advised the Tribunal that the builder appointed to carry out the forecourt paving considered the free-standing gate pillar to be unstable and recommended removal. In the event, in June 2011, both the free-standing pillar and the pier terminating the roadside wall were demolished, the gate removed and a new brick pier to support the remaining portion of roadside wall was constructed slightly further to the east than the original pier. It was evident on site that the forecourt works also involved the removal of the upstands bordering the path to the front door, together with the leveling and re-paving of the entire forecourt, up to the retained planting bed along the Cheshire Home boundary.
4. At the Hearing, Mr. Le Cheminant explained that the appellants considered the pedestrian gate to be a redundant feature; most visitors walked across the open forecourt to reach Les Rosiers front door, rather than using the footpath. He also advised the Tribunal that the gate and supporting pillars obscured views of both oncoming traffic and approaching pedestrians, especially small children, when reversing out of the forecourt parking area. It was for these reasons that the appellants decided to remove the gate and supporting posts in their entirety, rather than make the free-standing pillar safe when advised about its unstable condition by the builder.
5. The work was carried out in June 2011, without planning permission. At the Hearing, Mr. Le Cheminant advised the Tribunal that he was not aware that planning permission was required to demolish the pillars supporting the gate. He said that he had looked on the States website but the advice was unclear. The Department pointed out that it had received a pre-application query from the appellants on 14<sup>th</sup> June 2011 concerning the removal of the gate and supporting pillars.
6. An application seeking retrospective planning permission for the works was refused in November 2011, followed by the issue of a Compliance Notice on 17<sup>th</sup> February 2012. This requires new pedestrian gate pillars to be constructed to the same dimensions and appearance as the ones removed, so as to reduce the vehicular access to its previous

width of approximately 3.6m. The Notice took effect on 21<sup>st</sup> March 2012 with the requirements to be carried out by 25<sup>th</sup> May 2012. The Compliance Notice has not been challenged and remains in force.

### **The Development Plan**

7. The appeal site is located within a Settlement Area in the Urban Area Plan (UAP). Policy GEN6 (Character and Amenity) requires locally distinctive features and characteristics of the environment to be taken into account when considering development proposals. Amongst other things, Policy DBE1 (Design – General) requires the retention of features that contribute to the character of the area and seeks to avoid the introduction of elements that would appear obtrusive or discordant in the street scene.
8. Policy DBE9 sets out the criteria used to assess proposals to demolish existing buildings and features, including criteria (a) the feature's contribution to the character and appearance of the area; (b) the contribution of the replacement development to the character and appearance of the area and (c) whether the importance of the new development and any benefits arising would outweigh the loss resulting from demolition.

### **Main Issue**

9. The main issue in this appeal is the effect of demolishing the gate pillars and removing the gate on the frontage of the property on the character and appearance of the street scene in the Rohais.

### **Assessment**

10. The section of the Rohais between Collings Road and Le Foulon Road is predominantly residential in character, typified by two storey dwellings set back from the road behind front gardens of varying depth. Historically, these front gardens would have been enclosed by garden walls, with only pedestrian gates into the property. The requirement for off-street parking has meant that prior to planning control, many of these front garden walls were demolished to create access for parking spaces. This has happened to an extent in the Rohais, as in other parts of St Peter Port and elsewhere in the Island.
11. Having walked the Rohais in the vicinity of the appeal site, the Tribunal considered that where retained in whole or in part, existing walls, railings, hedges and other means of enclosure along the road frontage are an important element of the street scene. They provide visual containment; physically define the transition between the public domain and semi-private front garden areas; contribute to the appearance and visual character of the area, and are an important element of local distinctiveness. The retention of such roadside features is therefore supported by Policies GEN6 and DBE1.
12. We, the members of the Tribunal, acknowledge that the distinctive local character of this

part of the Rohais has already been compromised to a degree by the removal of roadside means of enclosure to provide vehicular accesses on a number of properties near the appeal site. However, the Department's unchallenged evidence indicates that no accesses of comparable width to the existing access at Les Rosiers were permitted under the current UAP policies which promote good design in the built environment. On that basis, the Tribunal is satisfied that provided the Department continues to apply UAP policies fairly and consistently when assessing development proposals, this approach is likely to halt the further erosion of local character by works requiring permission and is therefore worthy of our support.

13. However, the Tribunal is also mindful that prior to the unauthorised works being undertaken, the main stretch of the original front garden wall at Les Rosiers had already been demolished to create a vehicular access some 3.6m wide. We have therefore considered very carefully whether the loss of the gate, supporting pillars and associated changes to the short section of retained roadside wall carried out without planning permission in June 2011 have had a significant impact on the street scene, in the wider context described above.
14. Our observations in the area suggest a correlation between the width of a vehicular access and the degree of harmful visual impact on the street scene; to put it simply, the wider the access, the greater the impact. Measurements taken and agreed at the site visit suggest that the works carried out at Les Rosiers have increased the width of the vehicular access at the appeal site by about 1.5m. Based on this measurement, the Tribunal considers that the impact of widening the vehicular access on the street scene has been significant.
15. During our visit, we also observed that even relatively small features, such as pillars, gates and small stretches of roadside wall contribute positively to a sense of enclosure in the public domain. The loss of such features combined with the visual impact of widening the vehicular access exacerbates the harm to the street scene. In our view, the visual benefit of paving the forecourt is not sufficient to outweigh the harm we have identified. As a result, we do not consider that the appeal scheme satisfies the requirements of Policy DBE9 (Demolition of Buildings and Features) in relation to demolition.
16. In reaching our conclusion, we have considered carefully the appellants' argument that any harm to the street scene is outweighed by the benefits of highway safety which they consider flow from the appeal development, specifically the improvement to visibility looking east. The Rohais is a Designated Urban Traffic Priority Route in the approved Traffic Engineering Guidelines for Guernsey. As these roads provide the key arterial routes into the centre of town, the guidelines advise that careful consideration should be given to the design standards of proposed accesses; the relaxation of design standards is only permissible in exceptional circumstances. The recommended visibility requirement for accesses on such routes is 33m in both directions.
17. Without doubt, the removal of the gate and supporting pillars has improved visibility

looking east in the direction of oncoming traffic, from around 8m to about 12m. It has made no difference to visibility looking west (about 18m). Notwithstanding the improvement in one direction, visibility in both directions is still significantly below the 33m recommended in the approved guidelines and therefore the vehicular access remains significantly sub-standard, even if a driver exits the parking area in a forward gear, rather than in reverse gear as happens at present on the appeal site.

18. Enlarging the forecourt parking area has created a space easily wide enough to accommodate two vehicles parked side by side. However, with both spaces occupied, the sightline of a driver wishing to exit one of the spaces would be obstructed by the vehicle parked in the adjacent space, thereby negating the highway benefit of improved visibility arising from the demolition. As noted by the Traffic Services Officer, *“this would be particularly evident if the vehicles were driven into the space and raises road safety concerns as a result”*.
19. At the Hearing, the Tribunal was advised by Mr. Le Cheminant that two vehicles could be parked on the forecourt before the demolition works were carried out and the wider area paved over, but only with great difficulty. A standard parking space is 2.4m wide, based on the width of an average car and the need for space to open the driver’s door to enter or leave the vehicle. The forecourt parking area at Les Rosiers was less than 4m wide prior to June 2011. Given these physical constraints, whilst not impossible, we think it unlikely that two parking spaces were accommodated without considerable inconvenience ingressing and egressing the vehicles on a frequent, regular basis, prior to June 2011 when the appeal development work was carried out.
20. Now that it is relatively easy to park two cars side by side, we consider it likely that the number of traffic movements into and out of the forecourt parking area has increased since the works were carried out. The more intensive use of this vehicular access on to a Traffic Priority Route, would exacerbate the highway safety risk associated with sub-standard visibility. Taking all these matters into account, whilst sharing the appellant’s views about the importance of highway safety, we do not find his arguments in support of the appeal scheme on highway safety grounds to be compelling.

## **Conclusion**

21. For the reasons stated, the Tribunal considers that walls, gates and similar means of enclosure are important features in the street scene in this section of the Rohais, which contribute to the character of the area. The loss of the gate, supporting pillars and the associated changes to the small section of retained wall at Les Rosiers, combined with the widening of the vehicular access which flows from these works, has had a detrimental effect on the street scene in our opinion, in conflict with Policy GEN6 and Policy DBE1 of the UAP.
22. We acknowledge the appellants’ wish to improve the appearance of the appeal site.

However, this improvement could have been achieved without increasing the width of the vehicular access by retaining the footpath to the front door, with its pedestrian gate and supporting pillars (making good any instability as necessary) and re-surfacing the original forecourt area.

23. Whilst the works of demolition have improved sightlines in one direction, visibility in both directions remains significantly sub-standard compared to that recommended in the approved guidelines. More significantly, the benefit of improved visibility is only achieved if one car is parked on the forecourt. If two vehicles are parked off street, then the highway benefits are negated (as noted above) and the safety risk increased as a result of additional traffic movements.
24. Taking these matters into account, the Tribunal is not convinced that the benefits of the appeal scheme are sufficient to outweigh the harm we have identified. Consequently, the requirements of Policy DBE9 are not satisfied. We therefore conclude that the appeal should fail.
25. The Tribunal has considered all other matters raised in written submissions, discussed at the Hearing and seen during its 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 in this case was reasonable, and that the Appeal cannot be upheld.

**Linda Wride Dip TP MRTPI  
Presiding Member**

**Date: 6<sup>th</sup> August 2012**